



State of Tennessee
Department of Children's Services

Subsidy Manual for Adoption Assistance ***And*** **Subsidized Permanent Guardianship**

Permanency/In Home/Out of Home Services

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Part I-Adoption Assistance

The proceeding information, in this manual, details practical steps in determining eligibility for the Adoption Assistance program, the process by which application is made, and circumstances that could result in changes to the Adoption Assistance payment.

Introduction

A fundamental premise of adoption is that every child is entitled to the love, security, and stability of a family that will be his/her permanent home. The Adoption Assistance Program contributes financially to assist families, otherwise lacking the financial resources, in adopting eligible children with special needs. Such families are untapped resources for children with special needs for whom permanent homes would be unavailable without Adoption Assistance.

Purpose

The purpose of the Adoption Assistance program is to facilitate the placement of children with special needs in permanent adoptive homes and thus preventing long inappropriate stays in foster care. The Adoption Assistance program is intended to incentivize potential adoptive parents to adopt children with special needs who otherwise could not adopt without financial assistance. Provisions of the Adoption Assistance program in Tennessee, includes the reimbursement of a one-time adoption expense also known as non-recurring fees, medical benefits, and monthly subsidy payments.

There are two (2) types of Adoption Assistance:

1. Active Adoption Assistance

Active Adoption Assistance means the child has met the special needs definition and the adoptive family may receive a monthly maintenance payment until the child reaches the age of 18 or 21. This category also includes non-recurring Adoption Assistance expenses. Children eligible for IV-E Adoption Assistance are categorically eligible for Title XIX Medical Assistance/Medicaid (TennCare). Children eligible for state-funded Adoption Assistance are eligible for Medicaid (TennCare) if it has been determined that the child has medical or rehabilitative care needs that would have prevented the adoption without Adoption Assistance/Medicaid.

2. Deferred Adoption Assistance

Deferred Adoption Assistance is reserved for children at high risk of developing significant medical, psychological, emotional, and/or behavioral issues due to their past history. Children eligible for IV-E deferred Adoption Assistance are categorically eligible for Title XIX Medical Assistance/ Medicaid (TennCare). Children eligible for state-funded deferred Adoption Assistance will not be eligible for Title XIX Medical Assistance/Medicaid (TennCare) until such time that the deferred agreement becomes active because the child had developed a diagnosis related to the high risk factors for which the deferred agreement was approved.

After determining a child's eligibility for Adoption Assistance, the funding source, and a family has been approved to adopt, DCS negotiates the amount of the Adoption Assistance payment with the adoptive family based on the child's needs and the family's circumstances.

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The categories of Title IV-E Adoption Assistance and State Funded Adoption Assistance are:

- Daily rate amount;
- Payment for non-recurring expenses related to the adoption for children who meet the special needs criteria; and
- Title XIX Medical Assistance/TennCare/Medicaid coverage.

DCS may re-evaluate Adoption Assistance benefits any time a circumstance occurs that affects the amount or type of assistance provided. DCS does not delay action until the renewal of the assistance.

The Title IV-E Adoption Assistance Act provides that families who adopt children with special needs will have needed services available regardless of their state of residence. Therefore, DCS is responsible for ensuring that families whom DCS has approved for Tennessee Adoption Assistance and who reside out of state receive services. Another state may also request DCS to help families who are Tennessee residents and whom that state approves for Adoption Assistance.

Information for all Adoption Assistance processes and procedures will be maintained in TFACTS as well as the paper file.

Legal Base

TCA 36-1-201, 36-1-202, 36-1-203, 36-1-204, 36-1-205, 36-1-206

TCA 36-1-102

TCA 37-4-201

TCA 37-4-207

TCA 37-1-102 (b) (21)

TCA 4-58-103

The Personal Responsibility and Reconciliation Act of 1996 (PRWORA) Public Law (P.L. 104-193)
Public Law 96-272 (42 USC 670 et. seq)

Public Law (P.L. 105-89) Adoption and Safe Families Act

Public law 109-239 (Safe and Timely Interstate Placement of Children in Foster Care)

Fostering Connections to Success and Increasing Adoptions Act 2008 (P.L. 110-351).

Section 471 Social Security Act

Section 473 Social Security Act

Section 475 Social Security Act

Child Welfare Policy Manual

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Section 1: CRITERIA FOR ADOPTION ASSISTANCE ELIGIBILITY

- What:** Determine child's eligibility for Adoption Assistance.
- When:** Prior to completion of application for Adoption Assistance, Adoption Assistance Agreement and Adoption Finalization.
- Who:** Permanency Specialist, FSW, or Child Welfare Benefits Counselor

Criteria for Determining Eligibility

A child's eligibility for title IV-E, Title IV-E Fostering Connections, and State Funded Adoption Assistance is based, in part, on a determination by DCS that the child is a child with special needs. A determination of special needs is a three-part requirement established in section 473 (c) of the Social Security Act. All three parts of the special needs provision must be met in order for a child to be considered a child with special needs. The determination of special needs must be made by DCS prior to the finalization of the adoption:

Three part requirement in Tennessee

- 1) DCS must determine that the child cannot or should not return to the home of his or her parents (s) which means the child must be legally free for adoption and in full guardianship of DCS or a Licensed Child Placing Agency prior to the adoption;
- 2) DCS must determine that there exists a specific factor or condition which makes it reasonable to conclude that the child cannot be adopted without providing Adoption Assistance or Title XIX medical assistance/Medicaid (TennCare) which means the child must meet at least one of the special needs factors or conditions outlined in DCS Policy [15.11, Adoption Assistance](#); and
- 3) DCS must make a reasonable, but unsuccessful, effort to place the child for adoption with appropriate adoptive parent (s) without providing Adoption Assistance or Title XIX medical assistance/Medicaid (TennCare). The only exception to this requirement is in situations where it would be against the best interests of the child due to such factors as the existence of significant emotional ties with the prospective adoptive parent (s) while in their care as a foster child, or adoption by a relative (in keeping with the statutory emphasis on the placement of children with relatives).

Additionally, the child must be under the age of 18 years old and a U.S. citizen or qualified alien to be determined eligible for the Adoption Assistance program. Children who are not U.S. citizens or qualified legal aliens are not eligible to receive Title IV-E or State Funded Adoption Assistance.

Eligibility for Adoption Assistance is determined within TFACTS or in some instances eligibility may be determined via form **CS-0821, Certification of Eligibility for Title IV-E/State Funded Adoption Assistance** or form **CS-0931, Certification of Eligibility for Title IV-E Fostering Connections Adoption Assistance** for eligibility determinations regarding children in the guardianship of a Licensed Child Placing Agency or in situations where the child's eligibility for the Adoption Assistance program is being re-evaluated due to possible error or oversight.

When DCS has determined that the child has special needs (as defined by the State), the possibility of Adoption Assistance should be discussed with the prospective adoptive parents.

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Section 2: CRITERIA FOR DETERMINING IF A CHILD SHOULD NOT OR CANNOT RETURN TO THE HOME OF HIS/HER PARENT(S)

What: Determining if the child cannot or should not return to the home of his/her parents

When: Prior to completing the Adoption Assistance Application and Agreement prior to adoption finalization

Who: The Permanency Specialist and or the Family Service Worker

DCS must determine that the child being considered for approval of the Adoption Assistance program cannot or should not be returned to the home of his/her parents. This determination must be reached based on evidence by a court order legally clearing the child through Termination of Parental Rights (TPR) of both parents. In the case of an orphan child, there must be verification of the death of both parents.

In Tennessee, eligibility for Adoption Assistance is based, in part, on a child being in **full guardianship** of DCS or a Licensed Child Placing Agency. Therefore, children in partial guardianship are not eligible for the Adoption Assistance program.

Documentation Review Process:

The Permanency Specialists and/or the Family Service Worker should review all documents in a child's case file to determine if the mother's and father's (birth/putative and/or legal father's) parental rights have been terminated. Documents verifying the termination of the parental rights may include any of the following:

- a) Evidence of a juvenile, chancery, or circuit court order terminating the parental rights (TPR);
- b) A voluntary placement agreement signed by the parent(s) and appropriate DCS representative terminating parental rights and/or;
- c) Legal verification of the death of the parent(s).

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Section 3: DETERMINING SPECIAL NEEDS FACTORS

What: Determining if Special Needs factors or conditions exist for a child being considered for approval of the Adoption Assistance program

When: This determination must be made prior to adoption finalization

Who: The Permanency Specialist and or the Family Service Worker

To determine a child eligible for Adoption Assistance, DCS must conclude prior to adoption finalization that there exists a specific factor or condition which makes it reasonable to conclude that the child cannot be adopted without providing Adoption Assistance or Title XIX medical assistance/Medicaid (TennCare) prior to adoption. Refer to DCS Policy [15.11, Adoption Assistance](#).

In Tennessee, the special needs factors or conditions include any of the following:

1. The child has a medically diagnosed disability which substantially limits one or more major life activities, requires professional treatment, and assistance in self-care;
 - ◆ It is necessary to obtain documentation from the licensed provider or in some instances a Certified ABA provider who is responsible for the child's treatment and care related to the diagnosed disability/condition of the child, to certify the child meets this criterion. Information documented in the child's Psychological, Psychiatric Evaluations, Psycho-educational Evaluation, Individual Education Plan (IEP) or 504 Plan are also acceptable forms of documentation. **Documentation to support this criterion should be uploaded in TFACTS and included in the Subsidy Packet provided to the Subsidy Worker who will be responsible for managing the Subsidy Case.**
2. The child is diagnosed by a qualified professional to have a behavioral or emotional disorder characterized by inappropriate behavior, which deviates substantially from behavior appropriate to the child's age or significantly interferes with child's intellectual, social, and personal functioning;
 - ◆ It is necessary to obtain documentation from the licensed provider or in some instances a Certified ABA provider who is responsible for the child's treatment and care related to the diagnosed disability/condition of the child, to certify the child meets this criterion. Information documented in the child's Psychological, Psychiatric Evaluations, Psycho-educational Evaluation, Individual Education Plan (IEP) or 504 Plan are also acceptable forms of documentation. **Documentation to support this criterion should be uploaded in TFACTS and included in the Subsidy Packet provided to the Subsidy Worker who will be responsible for managing the Subsidy Case.**
3. The child is diagnosed to be intellectually disabled by a qualified professional;
 - ◆ It is necessary to obtain documentation from the licensed provider who is responsible for the child's treatment and care related to the diagnosed disability/condition of the child, to certify the child meets this criterion. Information documented in the child's Psychological, Psychiatric Evaluations, Psycho-educational Evaluation, Individual Education Plan (IEP) or 504 Plan are also acceptable forms of documentation.

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Documentation to support this criterion should be uploaded in TFACTS and included in the Subsidy Packet provided to the Subsidy Worker who will be responsible for managing the Subsidy Case.

4. The child has a moderate to severe medical, physical, or psychological condition, diagnosed by a licensed physician, psychologist, or licensed mental health professional and the identified condition requires treatment;
 - ◆ It is necessary to obtain documentation from the licensed provider or in some instances a Certified ABA provider who is responsible for the child's treatment and care related to the diagnosed disability/condition of the child, to certify the child meets this criterion. Information documented the child's Individual Education Plan (IEP) or 504 Plan are also acceptable forms of documentation. In order to certify the child as meeting the special needs factor under the criteria, the documentation MUST indicate a Moderate or Severe diagnosis. If the severity of the child's diagnosis is not indicated on the documentation or if the severity is indicated as Mild, the child will not qualify as meeting the special needs factor under this criteria. **Documentation to support this criterion should be uploaded in TFACTS and included in the Subsidy Packet provided to the Subsidy Worker who will be responsible for managing the Subsidy Case.**
5. The child is of a minority race or ethnic group, two (2) years of age or older.
 - ◆ Age and race can be verified via the child's birth certificate, medical records, school records, or documentation from another third party in conjunction with information documented in TFACTS and in the child's case file. The information that is provided by the caregiver and documented in the TFACTS record during client in-take will serve as documentation of race and minority heritage. **Any additional documentation to support this criterion should be uploaded in TFACTS and included in the Subsidy Packet provided to the Subsidy Worker who will be responsible for managing the Subsidy Case.**
6. The child is Caucasian, nine (9) years of age or older.
 - ◆ Age can be verified via the child's birth certificate, medical records, school records, or documentation from another third party in conjunction with information documented in TFACTS and in the child's case file. **Any additional documentation to support this criterion should be uploaded in TFACTS and included in the Subsidy Packet provided to the Subsidy Worker who will be responsible for managing the Subsidy Case.**
7. The child is a member of a sibling group of two (2) or more children to be placed in the same adoptive home **within the same federal fiscal year (Fostering Connections Only)**.
 - ◆ It is not necessary that the applicable child and the eligible siblings be adopted at the same time as long as the siblings are placed in the same adoptive home within the same federal fiscal year and the siblings meet all other eligibility criteria for Adoption Assistance. **Documentation to support this criterion should be uploaded in TFACTS and included in the Subsidy Packet provided to the Subsidy Worker who will be responsible for managing the Subsidy Case.**
 - ◆ Sibling group status can be verified through birth certificates, medical records, or other forms of verification from a third party, in conjunction with information documented in TFACTS. **Documentation to support this criterion should be**

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uploaded in TFACTS and included in the Subsidy Packet provided to the Subsidy Worker who will be responsible for managing the Subsidy Case.

8. The child's life experiences include three (3) or more consecutive years in Tennessee custody.
 - ◆ TFACTS can be used as evidence to support this criterion. In order to qualify as meeting the special needs factor under this criteria, the documentation must demonstrate that the child has been in foster care for three (3) or more consecutive years. If there is a custodial break within the three (3) year period (the child is released from foster care and returns to DCS custody), the child will not qualify as meeting the special needs factor under this criteria until such time the child has been continuously in foster care for at least (3) or more years.
9. The child's life experiences include neglect, physical abuse, or sexual abuse which rises to the level of severe child abuse as indicated by DCS or adjudicated by a court and defined in TCA 37-1-102 (b) (21), "Severe child abuse".

The commission of any act towards the child prohibited by §§ 39-13-502, 39-13-504, 39-13-522, 39-15-302, 39-15-402 and 39-17-1005 or the knowing failure to protect the child from the commission of any such act toward the child; or (B) Knowingly allowing a child to be present within a structure where the act of creating methamphetamine, as that substance is identified in 39-17-408 (d) (2) is occurring.

- ◆ Evidence from a court order documenting a Severe Abuse Finding and/or information from DCS indicating Severe Abuse can be used as supporting evidence of the child meeting this criterion. **Documentation to support this criterion should be uploaded in TFACTS and included in the Subsidy Packet provided to the Subsidy Worker who will be responsible for managing the Subsidy Case.**
10. The child meets the criteria for a deferred subsidy due to one or more of the following:
 - a) The child is at risk for a condition described above due to prenatal exposure to toxins, a history of severe neglect and/or abuse or serious neglect, genetic history, or a child who has a history of multiple (three or more) disrupted foster or adoptive placements that are documented in TFACTS.
 - ◆ Documentation from the child's birth records, court order documenting severe abuse and/or neglect, information from the child's TFACTS record, parental psychological/psychiatric reports/evaluations can be used to support this criterion. **Documentation to support this criterion should be uploaded in TFACTS and included in the Subsidy Packet provided to the Subsidy Worker who will be responsible for managing the Subsidy Case.**
 - b) The child meets the definition of Safe Haven
 - ◆ See Chapter 14, work aid #5, [Protocol for Anonymous Voluntary Abandonment of Unharmed Newborn Infants](#) for the definition of "Safe Haven"
 - c) The child is diagnosed with Neonatal Abstinence Syndrome
 - ◆ Documentation from the child's birth records or a licensed provider responsible for the child's treatment and care can be used to confirm this diagnosis as evidence of the child meeting this criterion. **Documentation to support this criterion should be uploaded in TFACTS and included in the Subsidy Packet provided to the Subsidy Worker who will be responsible for managing the Subsidy Case.**

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Note: If the child qualifies only under these criteria, the child must be placed in the deferred category where they shall receive Medicaid, if determined eligible for Title IV-E, but will receive a zero amount monthly payment until a diagnosis is made. A child determined eligible for state funded deferred Adoption Assistance is not eligible for Medicaid (TennCare).

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Section 4: DETERMINING REASONABLE EFFORTS FOR ADOPTION ASSISTANCE

- What:** Determine if an appropriate resource family needs Adoption Assistance or Title XIX medical assistance (TennCare/Medicaid)
- When:** An eligible child is identified for the resource family and circumstances prevent the resource family from adopting without financial assistance or Title XIX medical assistance (TennCare/Medicaid)
- Who:** Permanency Specialist or FSW

Reasonable efforts must be made to place the child being considered for adoptive placement with appropriate adoptive parent(s) without Adoption Assistance or Title XIX medical assistance (TennCare).

Such an effort might include the use of adoption exchanges, or other such activities. The only exception to this requirement is when it would not be in the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of those parents as a foster child. The exception also extends to other circumstances that are not in the child's best interest, as well as adoption by a relative, in keeping with the statutory emphasis on the placement of children with relatives.

DCS must document in each child's case record the specific factor(s) that make the child difficult to place and describe the efforts to place the child for adoption without providing assistance. In an effort to find an appropriate adoptive home for a child, and meet the requirement that a reasonable, but unsuccessful, effort be made to place the child without Adoption Assistance, it is not necessary for DCS to recruit for a family while the child remains in foster care.

Once the agency has determined that placement with a certain family is in the child's best interest, the agency should make full disclosure about the child's background, as well as known or potential problems.

If the agency has determined that, the child cannot or should not return home and the child meets the statutory definition of special needs with regard to specific factors or conditions, then the agency can pose the question of whether the prospective adoptive parents are willing to adopt without Adoption Assistance.

If they say they cannot adopt the child without Adoption Assistance, the requirement for a reasonable, but unsuccessful, effort to place the child without providing Adoption Assistance will be met and must be documented on DCS forms, **CS-0930 Application for Adoption Assistance**, **CS-0821, Certification of Eligibility for Title IV-E/State-Funded Adoption Assistance**, and **CS-0931, Certification of Eligibility for Title IV-E Fostering Connections Adoption Assistance** and/or in TFACTS.

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Section 5: DETERMINING ELIGIBILITY FOR TITLE IV-E; TITLE IV-E FOSTERING CONNECTIONS; and STATE FUNDED ADOPTION ASSISTANCE

- What:** Determining a child's funding source for Adoption Assistance
- When:** Prior to completion of the Adoption Assistance Application and Agreement
- Who:** Permanency Specialist and/or the Family Service Worker and the Child Welfare Benefits Staff

There are three funding categories for Adoption Assistance to include, Title IV-E Fostering Connections (applicable child), Title IV-E (non-applicable); and State Funded. The eligibility criterion for each funding category is defined below.

A. Title IV-E Fostering Connections (Applicable Child)

The Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351), enacted on October 7, 2008, amended the eligibility requirements for the Title IV-E Adoption Assistance program. The revised eligibility criteria will be phased in for specific children over a nine year period beginning in Federal Fiscal Year (FFY) 2011(October 1, 2010) in Tennessee. A child, for whom the revised eligibility criteria apply, is referred to as an **"applicable child"**.

An applicable child is defined as a child who meets the special needs determination, in addition to applicable age requirements, or a child who has been in foster care for at least sixty (60) consecutive months, or a sibling to either such child if both are to have the same adoptive placement.

The child must also be either a United States citizen or a Qualified Alien.

In order for a child to be eligible for Title IV-E Adoption Assistance through the Fostering Connections eligibility requirement, they must:

- a) Be in Full Guardianship of DCS or a Licensed Child Placing Agency. Children in partial guardianship are not eligible for the Adoption Assistance program.
- b) Meet one of the Title IV-E "applicable child" criteria;
- c) It must be determined that the child should not or cannot be returned to the home of his/her parent (s) as outlined in Section 2;
- d) Reasonable efforts must be made to place the child without Adoption Assistance as outlined in the Manual Section 3;
- e) There is a specific factor or condition because of which it is reasonable to conclude that the child cannot be placed with adoptive parents without providing Adoption Assistance and Title XIX medical assistance/Medicaid (TennCare); and

DCS must also determine an applicable child with special needs meets one of the four (4) following eligibility requirements:

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1. At initiation of adoption proceedings the child was in care of the Department of Children's Services or a Licensed Private Child Placement agency or an Indian tribal organization pursuant to:
 - a) A removal court order with a judicial determination to the effect it was contrary to the child's welfare to remain in the home; or
 - b) A Voluntary Placement Agreement or Voluntary Surrender.
2. The child meets all the medical or disability requirements for Social Security Income (SSI). An "applicable child" does not have to meet the needs-based requirements for SSI.
3. The child of a minor parent and residing in the foster home or a child care institution with his/her minor parent and was removed from the home pursuant to:
 - a) A removal court order with a judicial determination to the effect it was contrary to the child's welfare to remain in the home; or
 - b) A Voluntary Placement Agreement or Voluntary Surrender.
4. The child was adopted and determined eligible for Title IV-E Adoption Assistance in a prior adoption.

B. Title IV-E (Non-Applicable Child)

A child who is a "non-applicable child" is one for whom the revised eligibility do not apply. The child must also be either a United States citizen or a Qualified Alien.

In order for a child to be eligible for Title IV-E Adoption Assistance, the following must be determined:

1. It must be determined that the child should not or cannot be returned to the home of his/her parent (s) as outlined in Section 2;
2. Reasonable efforts must be made to place the child without Adoption Assistance as outlined in the Manual Section 3;
3. There is a specific factor or condition because of which it is reasonable to conclude that the child cannot be placed with adoptive parents without providing Adoption Assistance and Title XIX medical assistance (TennCare). Refer to DCS Policy [15.11 Adoption Assistance](#), *Section B.4(C)*; *Section C.3*; and

DCS must also determine a non-applicable child with special needs meets one of the four (4) following eligibility requirements:

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1. The Child Welfare Benefits Unit determined that the child was eligible for Aid to Families with Dependent Children (AFDC) at the time of removal from the home and the removal was the result of either:
 - a) A court ordered removal with a finding that continuation in the home would be contrary to the child's welfare.
 - b) A Voluntary Placement Agreement (VPA) between the child's parent/ legal guardian and DCS, under which at least one Title IV-E foster care maintenance payment had been made on behalf of the child.
 - c) A Voluntary Surrender- If there is a petition to the court to remove the child from his or her home within six (6) months of the date the child lived with the specified relative from whom the child was removed and there is a subsequent judicial determination to the effect that remaining in the home would be contrary to the child's welfare.
2. The child was eligible for SSI prior to adoption finalization.
3. The child's parent is currently in foster care and is receiving Title IV-E foster care payment that covers both the child and the minor parent.
4. The child was eligible for Adoption Assistance through Title IV-E funding in a previous adoption.

C. State Funded Adoption Assistance

1. Children who do not meet the Federal IV-E Adoption Assistance eligibility requirements for an applicable or non-applicable child may be eligible for State Adoption Assistance. In order to be eligible for State Adoption Assistance, the following criteria must be met prior to the finalization of the adoption:
 - a) The child must meet the special needs criteria for the "non-applicable child".
 - b) The child must be or have been in the guardianship of DCS prior to finalization of the adoption.
 - c) The child must also be either a United States citizen or a Qualified Alien

Note: Children in the guardianship of a Licensed Child Placing Agency are not eligible for state funded Adoption Assistance but are only eligible for Title IV-E Adoption Assistance as long as the Title IV-E criteria are met.

2. Eligibility for Adoption Assistance is determined within TFACTS or in some instances eligibility may be determined via form **CS-0821, Certification of Eligibility for Title IV-E/State Funded Adoption Assistance** or form **CS-0931, Certification of Eligibility for Title IV-E Fostering Connections Adoption Assistance** for eligibility determinations regarding children in the guardianship of a Licensed Child Placing Agency or in situations where the child's eligibility for the Adoption Assistance program is being re-evaluated due to possible error or oversight.

3. Process for Determining Funding Source

- a) The Permanency Specialist/FSW completes the Special Needs Criteria/Subsidy Criteria in TFACTS or Part I of form **CS-0821, Certification of Eligibility for Title IV-E/State Funded Adoption Assistance** or **CS-0931, Certification of Eligibility for Title IV-E Fostering Connections Adoption Assistance** and submits to the Child Welfare Benefits Unit.

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- b) Child Welfare Benefits Counselors (CWBC) in each region are responsible for completing the eligibility requirements in **TFACTS** or Part II & III of form **CS-0821** or **CS-0931**.
- c) CWBC determines the funding source. This determination will be identified on the Adoption Assistance Application and Adoption Assistance Agreement.

Legal and Related References for Determining Eligibility for Adoption Assistance

- ◆ *DCS Policy [15.11, Adoption Assistance](#)*
- ◆ *Section 471 (a) (3) of the Social Security Act*
- ◆ *Section 473(a)(2)(C) of the Social Security Act*
- ◆ *Section 475 (8)(A); (8)(B) of the Social Security Act*
- ◆ *TCA 4-58-103*
- ◆ *The Personal Responsibility and Reconciliation Act of 1996 (PWORA) Public Law (P.L. 104-193)*
- ◆ *DCS forms **CS-0821, Certification of Title IV-E/State Funded Adoption Assistance** and **CS-0931, Certification of Eligibility for Title IV-E Fostering Connections Adoption Assistance.***
- ◆ ***TFACTS Eligibility Record***

Once the funding source for Adoption Assistance has been established through the certification process, it can only be changed as a result of a corrected error or when the child turns 18 years old via the Review of Eligibility process and revision to the Adoption Assistance Agreement and the documentation has been entered into **TFACTS (See, Section 18, Review of Eligibility for Youth Turning 18, 19, or 20).**

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Section 6: NEGOTIATING RATE TYPE AND AMOUNT OF ADOPTION ASSISTANCE

What: Negotiate the type and amount of assistance available to the family and all conditions of the assistance.

When: Prior to the completion of the application for Adoption Assistance.

Who: Permanency Specialist with assistance from FSW and/or Designated Staff

Adoption Assistance is available on behalf of a child if DCS enters into an Adoption Assistance agreement with the prospective adoptive parent(s) **prior to the finalization of the adoption**. The agreement must be signed by all parties (namely, the adoptive parent(s) and DCS/private agency representative), and a signed copy given to each party.

1. The agreement must specify the following and should be discussed with prospective adoptive parent(s):

- a) Duration of the agreement;
- b) Nature and amount of any payment, service and assistance to be provided;
- c) Agreement shall remain in effect regardless of the State in which the adoptive parent(s) reside;
- d) Interests of the child are protected in cases where the adoptive parent(s) and child move to another State;
- e) No coverage is available for educational expenses (i.e. school tuition and/or tutoring);
- f) No coverage for summer camp or day care;
- g) No coverage for riding therapy, dance or gymnastics;
- h) No coverage for computers and/or computer software;
- i) No coverage for vehicles to transport children;
- j) No coverage for major home renovations or additions (i.e. fences, pools, or accessibility modifications);
- k) Child's eligibility for Title XIX Medical Assistance/Medicaid (TennCare);
- l) No coverage for routine medical expenses (i.e. over the counter medications, doctor visits or hospitalizations unrelated to the child's documented special needs);
- m) No coverage for dentistry or orthodontia (exceptions may be for documented cases of medical necessity by the Director of Foster Care, Adoptions);
- n) Method of payment for medical expenses; Only if child is ineligible for Title XIX Medical Assistance/Medicaid (TennCare) and/or private insurance;
- o) Method of payment for non-recurring adoption expenses;
- p) DCS' inability to authorize any new service unless such service is directly related to a condition that DCS documented as existing before the adoption was final; and
- q) Possible changes in the Adoption Assistance Agreement when the family no longer needs a service, when changes occur in resources available to meet the child's needs, when changes occur in the foster care board rate, or for State Funded Adoption Assistance, when changes occur because of the renewal process.
- r) The Department reserves the right to review all Adoption Assistance agreements for corrections and oversight.

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- s) **Whoever knowingly obtains, or attempts to obtain, or aids, or abets any person to obtain by means of willfully false statement or representation or by impersonation, or other fraudulent, or other fraudulent device, any assistance on behalf of a child or other persons pursuant to the Interstate Compact on Adoption and Medical Assistance to which such child or other person is not entitled or assistance greater than such child or other person is entitled, commits a Class E felony. (This means that making any statement that is not true OR failing to inform the Department of any later change that might affect the adopted child's eligibility for the current assistance rate can result in criminal charges.)**

2. Resources/Benefits

Please explain to the adoptive family the following in regards to Adoption Assistance:

- a) The adoptive family is to use other resources available or that become available before using Adoption Assistance. Other resources include private insurance, Title XIX Medical Assistance/ Medical (TennCare) and other agency services;
- b) Adoption Assistance will not pay medical expenses for children who are eligible for Title XIX Medical Assistance/Medical (TennCare) or private insurance and other non-profit agency services;
- c) DCS expects the adoptive family to apply for and provide ongoing private insurance coverage through their current family coverage if the child is ineligible for TennCare/Medicaid; and
- d) DCS expects the adoptive family to apply for and notify DCS of receipt of other available benefits (SSA or other benefits) and that these benefits may affect the amount of Adoption Assistance they receive.

3. Change of Circumstances

Explain to the adoptive family that it is their responsibility to notify DCS of circumstances that affect their eligibility for Adoption Assistance or eligibility for Adoption Assistance in a different amount, including the following:

- a) If they are no longer legally responsible for the child;
- b) If they are no longer providing financial support for their child;
- c) If there is a change in the child's treatment needs that would warrant an increase or decrease to the Adoption Assistance payment;
- d) If there is any change of address;
- e) If the child marries or enlists in the military;
- f) When the child's custodial status changes;
- g) When the child dies;

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- h) When a child/youth adopted before October 1, 1997 graduates from college or post-secondary school up to the youth's 21st birthday;
- i) When a child/youth adopted between October 1, 1997 and February 29, 2008 graduates from high school up to the youth's 21st birthday;
- j) When a child/youth adopted on or after March 1, 2008 graduates from high school up to the youth's 19th birthday, whichever event occurs first;
- k) When a child/youth adopted on or after October 1, 2010, who has been determined Fostering Connections IV-E eligible and was at least 16 years old at the time of adoption finalization, graduates, the secondary educational program ends, or the child/youth turns age 21, whichever event comes first; or
- l) When a child/youth adopted on or after October 1, 2010, who has been determined Fostering Connections IV-E eligible and was at least 16 years old at the time of adoption finalization, graduates from an institution which provides post-secondary or vocational education graduates or turns age 21, whichever comes first; or
- m) When a child/youth adopted on or after October 1, 2010, who has been determined Fostering Connections IV-E eligible and was at least 16 years old at the time of adoption, becomes capable of employment or attending school that has previously been identified as incapable by a medical professional.
- o) The adoptive parents are made payees of SSA or VA benefits on behalf of the child as well as any changes in benefits.

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Section 7: DETERMINING THE DAILY RATE AMOUNT

- What:** Determine the amount of the daily rate when the child is eligible to receive an Adoption Assistance payment due to special needs.
- When:** Prior to finalization or at time of request for an adjustment if an Adoption Assistance Agreement is in effect.
- Who:** Permanency Specialist, Central Office Subsidy Staff

1. Determine the Child's Resources

Permanency Specialist will assist the family to determine the needs, identify resources to address the needs, and assess amount of daily rate based on the needs of child.

2. Negotiate

Negotiate the daily rate, which must be less than the current DCS foster care board rate with resource parents.

- a) **Regular Rates:** Check the following web link for all current Adoption Assistance rates.
<http://www.tn.gov/youth/fostercare/BoardRates.pdf>
- b) **Special Circumstance Rates** are designed for children with:
- ◆ Unique needs due to a diagnosed medical or mental health condition that substantially limits one or more of the following major life activities (Walking, Speaking, Breathing, Working, Learning, Performance of manual tasks, Vision, Self-Care);
 - ◆ Who requires a level of supervision exceeding that of his or her peers; and
 - ◆ Requires extra care due to physical, emotional, or mental disability.
 - ◆ Documentation used to support a Special Circumstances rate, must indicate that the child meets all three (3) Special Circumstances requirements as listed above for Special Circumstances rates approved on or after 7/1/2012. Children who do not meet all three criteria as of 7/1/2012 will not qualify for approval of the Special Circumstances rate.
 - ◆ Special Circumstance rates that were approved prior to 7/1/2012 will be reviewed for approval based on the criteria effective at the time the rate was initially approved. The only exception is when there is a request for a rate increase to the Special Circumstances rate. The rate criteria effective at the time of the request should be used in determining approval or denial of the increase.
 - ◆ Permanency Specialists must complete *Section A* of the form **CS-0674, Special or Extraordinary Board Rates Request**, and submit it to the Central Office Subsidy Unit Supervisor.
 - ◆ Permanency Specialist or designated staff will determine the child's needs based on diagnosis, prognosis, and other documentation from medical/mental health providers who have knowledge of child's current circumstances.

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- ◆ The Permanency Specialist/FSW will provide the licensed health care provider with form **CS-0934, Special or Extraordinary Rate Justification Form**, to be completed for a child who is being considered for a special or extraordinary rate. The Permanency Specialist will complete form **CS-0674, Special or Extraordinary Rate Request**, and submit, to the Designated Central Office Adoption Staff, along with the Special or Extraordinary Rate Justification form, and any other documentation, for review and signature.
- ◆ The Central Office Subsidy Unit will review information and documentation to determine if the documentation justifies the requested rate. If the documentation supports the requested rate, the request will be approved. If it does not justify the rate, Central Office Subsidy Unit will consult with the Permanency Specialist to determine if additional documentation should be obtained to support the initial requested rate; or if further negotiations are needed with the perspective parents.

c) Extraordinary Rates:

Extraordinary Adoption Assistance rates are reserved for children that have already met all three of the criteria to qualify for special circumstance Adoption Assistance rate, but have additional needs that are so unique and extensive that they cannot be met at the regular or special circumstance rate.

Permanency Specialist or designated staff will determine the child's needs based on diagnosis, prognosis, and other documentation from a licensed medical/mental health providers who have knowledge of child's current circumstances. The Permanency Specialist/FSW will provide the licensed health care provider form **CS-0934, Special or Extraordinary Rate Justification**, to be completed for a child who is being considered for a special or extraordinary rate. The Permanency Specialist will complete form **CS-0674, Special or Extraordinary Rate Request**, and submit, to the Designated Central Office Adoption Staff, along with the Special or Extraordinary Rate Justification form, and any other documentation, for review and signature.

The Central Office Subsidy Unit will review information and documentation to determine if the documentation justifies the requested rate. If the documentation supports the requested rate, the request will be approved. If it does not justify the rate, Central Office Subsidy Unit will consult with the Permanency Specialist to determine if additional documentation should be obtained to support the initial requested rate; or if further negotiations are needed with the perspective parents in negotiating a different rate.

The Permanency Specialist will advise the adoptive family of the decision.

- d) When evaluating the Adoption Assistance rate during the subsidy renewal or periodic subsidy review period, the Subsidy Staff and Designated Central Office approver should consider the special or extraordinary rate criterion which was in effect at the time the special or extraordinary rate was initially approved. This evaluation method should only apply in instances where the special or extraordinary rate is being considered for continued approval of the subsidy amount at the same rate.

When considering approval for an increase in the subsidy amount, the current rate structure or the rate structure in effect at the time of the request should be used as the basis for which the subsidy rate is approved or denied.

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If during the evaluation period, the Subsidy Specialist determines that child no longer meets the criteria for the current approved special or extraordinary rate, the Subsidy Specialist should utilize the criteria established in the Adoption Assistance policy that is effective at the time the AA rate is being reviewed for approval. If documentation is not submitted to support the continuation of the approved rate and the approved rate is less than the current regular AA rate for the child's age group, the designation of the rate type should be changed, but the Adoption Assistance subsidy should remain in effect at the same amount.

At each renewal or periodic review period, the Subsidy Specialist is responsible for gathering the necessary documents needed to support the approval of the subsidy rate to include **form CS-0674, Special or Extraordinary Rate Request** and forwarding them to the Designated Central Office staff for review and approval.

All requests for rate increases should be initiated by the designated Subsidy Specialist at the request of the adoptive/guardian parent. As the first reviewer, it is the Subsidy Specialist's responsibility to evaluate the documentation and to determine if the information submitted is sufficient to support the approval of an increase to the subsidy rate.

Approval

If the Subsidy Specialist determines the information is sufficient to support the requested rate increase, he/she is responsible for completing form **CS-0674, Special or Extraordinary Rate Request** and forwarding it to the designated Central Office approver along with the supporting documentation.

If Central Office Approver determines that the documentation is sufficient and the rate increase is warranted, he/she will approve form **CS-0674, Special or Extraordinary Rate Request** and notify the Subsidy Specialist of the approval.

Upon being notified of the approval, the Subsidy Specialist is responsible for completing a revision to the Adoption Assistance Agreement and revising the subsidy rate. The effective date for the revised (new) rate should be the first day of the following month in which the Special or Extraordinary Rate Request was approved, but can be made effective on a different date, under certain circumstances, on a case by case basis, with the approval of the Director of Foster Care and Adoption/Designee.

After receiving the signed and dated revised agreement back from the adoptive/guardian parent, the Subsidy Specialist is responsible for creating the subsidy (modification) review in TFACTS and for forwarding it, along with the supporting documents, to the Designated Central Office staff for review and approval.

Denial

If during the documentation review the Subsidy Specialist determines that the request for the rate increase should be denied, the Subsidy Specialist should prepare a written explanation as to the reason for the denial to include form **CS-0686, Notice of Denial, Termination, or Change in Adoption Assistance** and form **CS-0403, Appeal for Fair Hearing** by State Department. Once these documents are completed, a copy will be provided to the adoptive parent.

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NOTE: A child who received a Special or Extraordinary Foster Care board rate would not automatically receive a Special or Extraordinary Adoption Assistance maintenance payment. The above procedure must be followed. A Special or Extraordinary Adoption Assistance rate must be in place 90 days prior to signing Adoption Assistance agreements for children placed in a DCS resource home. If this requirement presents a barrier or delays permanency for any child, a waiver can be obtained from the Director of Foster Care, Adoptions or his or her designee.

All reported diagnoses must be verified by an accompanied psychological/psychiatric evaluations, assessments, and/or Medical Reports to be submitted to Central Office for consideration for an approval of a Special or Extraordinary Subsidy rate.

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Section 8: DETERMINING THE EFFECT OF SOCIAL SECURITY and VETERAN BENEFITS ON ADOPTION ASSISTANCE

- What:** Determine the effect of Social Security and Veteran benefits on Adoption Assistance.
- When:** When child is receiving those benefits and will be placed with Adoption Assistance.
- Who:** Permanency Specialist, Central Office Subsidy Staff

1. Eligibility

The child's Permanency Specialist or designated staff must ensure that Central Office Adoption Staff receives specific information about the child's eligibility for Social Security Administration (SSA) and Veterans Administration (VA) benefits.

2. Adoptive Parents

The resource parents should apply for the benefits upon finalization of the adoption. If the resource parents refuse to apply for these benefits, contact the Adoption Assistance Staff in DCS Central Office.

NOTE: Just prior to finalization the Permanency Specialist or designated staff must discuss child's eligibility for benefits. The resource parents must be aware that this is a direct link to the birth family. Information required by Social Security to make application for these benefits must be given to the adoptive parents prior to the finalization. After finalization, request for release of any information must be referred to the Post Adoption Services in DCS Central Office.

3. Daily Payment

When the adoptive parents become the payee for the child's benefits, the daily Adoption Assistance payment is adjusted by the amount of the Social Security and Veteran benefits for State Funded Agreement only.

4. Stopping Payment

When the benefits exceed the amount of the monthly Adoption Assistance payment, the monthly Adoption Assistance maintenance payment should be stopped.

5. Benefits to the Child

After finalization of the adoption, if the child receives Social Security and Veteran benefits as a result of the adoptive parent's circumstances (disability, age), consider these benefits as the adoptive family's income. These benefits are not considered when negotiating monthly payment.

NOTE: If a child receives SSI benefits, the Adoption Assistance rate will not be affected.

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Section 9: DETERMINING ELIGIBILITY FOR NON-RECURRING ADOPTION EXPENSES

What: Determine the eligibility for the adoptive family to receive non-recurring expenses. (See DCS Policy [15.11, Adoption Assistance](#))

When: Prior to finalization of the adoption.

Who: Permanency Specialist or Central Office Subsidy Staff

1. Determining Eligibility

Any child eligible who meets the special needs criteria for Title IV-E or State Funded Adoption Assistance is eligible for non-recurring adoption expenses.

Note: For those children who do not meet the special needs criteria for payment of non-recurring expenses and payment of those expenses will be a barrier or cause a delay to finalizing the adoption, submit the request for payment in the form of a memo justifying payment to the Director of Foster Care and Adoptions for final approval.

DCS payment of expenditures for non-recurring expenses is a one-time expense of adoption for which parents are ultimately responsible and may not exceed \$1500.00 per child.

The non-recurring expenses may include one or a combination of the following related to finalization of the adoption:

- a) Attorney fees;
- b) Court costs (Typically an attorney billed expense);
- c) Birth certificate cost (Typically an attorney billed expense);
- d) The application fee, a home study by a private child placing agency and supervision of placement;
- e) Travel expenses such as transportation and lodging for the prospective adoptive parent(s) related to the placement of a child with an out of county or out of state family. Any exceptions related to the transportation of a child during the process of placement must be referred to Central Office Designated Staff. Travel must be in accordance with state travel regulations; and
- f) Health and psychological examination, if required, related to completing the home study.

2. Procedures for Approval

- a) When attorney fees are a part of non-recurring expenses, all non-recurring expenditures must be approved in writing by the permanency specialist Team Leader.

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- b) The Permanency Specialist will submit documents of cost along with a request for approval to the Team Leader of the Permanency Specialist.
- c) Approval must be in writing.

NOTE: Denials will be addressed in writing by the Team Leader of the Permanency Specialist.

3. Procedures for Reimbursement

- a) All Non-recurring legal expenses will not be reimbursed until:
 - ◆ Finalization of the adoption of the child, except in cases of a disruption;
 - ◆ A final decree of adoption has been received in the DCS office; and
 - ◆ The attorney has submitted an itemized bill for payment in all cases, including cases in which the adoptive placement has disrupted. In cases of disruption, DCS can only pay for services provided up to the point of disruption.
 - ◆ Information should be submitted in the child's birth name.
- b) All other non-recurring expenses may be paid upon receipt of the attorney's bill and at the time of adoptive placement and the Adoptive Assistance Agreement is in effect.
- c) The Permanency Specialist, and Private Provider when appropriate, will obtain an original, signed itemized final invoice/billing statement from the attorney following finalization of the adoption. The amounts on **CS-0930, Adoption Assistance Application**, and **CS-0513, Adoption Assistance Agreement**, must be consistent in order for payment to be made.
- d) The original signed, itemized final invoice/billing statement from the attorney, and the original written approval of the non-recurring adoption expenses, along with the supporting documentation must be submitted to DCS Payment System. Copies of all related non-recurring expenses billing documentation must be maintained in the Adoption Assistance case file.

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Section 10: ESTABLISHING TENNCARE/MEDICAID FOR A CHILD

- What:** Establish TennCare/Medicaid coverage for a child
- When:** Prior to adoption finalization
- Who:** Permanency Specialist or Central Office Subsidy Staff, Child Welfare Benefits Staff

1. Circumstances

Title IV-E Adoption Assistance children are categorically eligible for TennCare/Medicaid regardless where the child resides.

When an adopted child is eligible for State-funded Adoption Assistance, the child is eligible for TennCare, if the child has a medical/psychological rehabilitative need.

2. Permanency Specialist or Designated Staff Responsibilities

Follow these procedures when finalizing an adoption for a child residing in Tennessee:

- a) Provide the Child Welfare Benefits Counselor (CWBC) the following information:
- ◆ The child's birth date;
 - ◆ The child's Social Security number in the adoptive name will be provided when available;
 - ◆ Date of finalization;
 - ◆ Copy of **CS-0930, Application for Adoption Assistance**; and
 - ◆ Copy of **CS-0513, Adoptive Assistance Agreement**;
 - ◆ Copy of **CS-0821, Certification of Eligibility for Title IV-E State Funded Adoption Assistance** or **CS-0931, Certification of Eligibility for Title IV-E Fostering Connections Adoption Assistance**.
- b) An application for TennCare is not required. A completed **CS-0930, Application for Adoption Assistance** serves as an application for TennCare.
- c) Notify the local/regional Child Welfare Benefit Unit whenever there is a change in circumstances for children who receive Adoption Assistance, which might affect the status of their TennCare/Medicaid.
- ◆ Termination of the Adoption Assistance Agreement
 - ◆ Change in funding source
 - ◆ When state-funded children no longer have a documented medical/psychological rehabilitative care need.

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- d) Follow these procedures when a child who receives adoption assistance payments is placed out of state:
- ◆ Inform the adoptive parents of a Title IV-E eligible child's availability of Medicaid coverage in their state of residence.
 - ◆ Upon a child's placement for adoption out of state, a referral will be made for Medicaid benefits through Interstate Compact on the Placement of Children.
 - ◆ After the adoption has been finalized, an ICAMA Referral will be completed by the Central Office Subsidy Unit or the Permanency Specialist and forwarded to the child's new state of residence for Medicaid. This will be done for adopted children who are Title IV-E and State Funded eligible (**See Section 11, Establishing Medicaid in Another State for Families who Receive Tennessee Adoption Assistance.**)

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Section 11: ESTABLISHING MEDICAID IN ANOTHER STATE FOR FAMILIES WHO RECEIVE TENNESSEE ADOPTION ASSISTANCE

What: Establish service in another state for families who receive Tennessee Adoption Assistance

When: Upon receipt of a request from the adoptive family

Who: Central Office Subsidy Staff

1. Negotiation

Subsidy Payments, non-recurring expenses, payment of medical expenses, etc., will continue as agreed upon by the adoptive family and DCS.

2. ICAMA (Interstate Compact Adoption Medical Assistance) Referral

Send referral packet with a copy of the initial Adoption Assistance Agreement, supporting documentation, current Renewal Affidavit, along with the cover letter to Central Office Subsidy Staff.

The cover letter should include the following information:

- a) Child/Children's name, DOB, social security number
- b) Funding source
- c) Child's race
- d) Parents full name
- e) Current address and telephone number
- f) Ending date for TennCare
- g) The requested begin date for Medicaid in the new state of residence

If there are problems establishing Medicaid for a child in their new state of residence, Central Office Subsidy Staff will work with the parents and state's children's agency to get resolution to the problem.

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Section 12: RATE CHANGES OF THE ADOPTION ASSISTANCE SUBSIDY BASED ON THE CHILD'S AGE

What: Determine continuing eligibility for a child. (See DCS Policy [15.11, Adoption Assistance](#))

When: Adoptive parent requests increase based on the child's age

Who: Central Office Subsidy Staff

Renewal/Renegotiation due to change in age

- a) An increase, due to a child's birthday, is given upon the request of the adoptive parents. Due to the change in the Adoption Assistance rate, the Adoption Assistance staff will have to complete **CS-0513, Adoption Assistance Agreement**, to show the new rate.

Note: Increase the new rate effective the first day of the month following the parent's request for the increase.

- b) Increases due to a child's birthday are available only for those children who receive regular and special circumstances Adoption Assistance rates.
- c) Prior to November 1, 2004, the breakdown of monthly Adoption Assistance rates consisted of 4 age categories. The four (4) categories were: ages 0-2, ages 3-4, ages 5-12, and ages 13 and above. An increase in the Adoption Assistance rates were given on the child's 5th and 13th birthdays.
- d) Beginning November 1, 2004 the Adoption Assistance age categories changed from 4 age groups to two age groups. The new age groups for Adoption Assistance children are: ages 0-11 and ages 12 and above.

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Section 13: ESTABLISHING MEDICAID FOR FAMILIES IN TENNESSEE WHO RECEIVE ADOPTION ASSISTANCE FROM ANOTHER STATE

- What:** Establish Medicaid for adoptive families living in Tennessee who receive Adoption Assistance from another state
- When:** Upon receipt of a referral from the child's new state of residence
- Who:** Central Office Subsidy Staff and Child Welfare Benefits Staff

1. Referral

Upon receipt of an ICAMA referral from another state requesting TennCare/Medicaid for a child who has moved to Tennessee and child receives Adoption Assistance, Central Office Subsidy staff will forward the following information to the Grand Region Child Welfare Benefits Unit to be completed.

- a) Cover letter from Central Office Subsidy Staff
- b) Signed ICAMA form 6.01 from the Adoption Assistance state
- c) ICAMA form 6.02
- d) Child's Adoption Assistance Agreement

2. Services Provided by Tennessee

- a) Notify the parent and the sending state, via ICAMA form 6.03, letter, or e-mail, that TennCare/Medicaid has been authorized for the child.
- b) Assist family, if necessary, with problems and/or issues around TennCare, by providing them with TennCare informational numbers to help with problems.

3. Communication with Child Welfare Benefits Staff (CWB)

When necessary, provide CWB Staff regarding changes in child's circumstances.

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Section 14: APPROVING DEFERRED ADOPTION ASSISTANCE

- What:** Approve Deferred Adoption Assistance for a child who has high risks of developing future medical or psychological problems. (See DCS Policy [15.11, Adoption Assistance](#)).
- When:** Prior to finalization
- Who:** Permanency Specialist or Central Office Subsidy Staff

1. Circumstances

Deferred Adoption Assistance is a type of Adoption Assistance reserved for children who only meet the deferred criteria prior to finalization of an adoption, making them ineligible for Adoption Assistance payments. These are children that are recognized as high risk and have the potential to develop significant medical, psychological, emotional, or behavioral issues due to their past history. High risk considerations include:

- a) Any child whose genetic background or birth parent's medical history indicates potential for developing physical/psychological problems;
- b) An infant who was exposed to alcohol/drugs where such exposure is documented in the child's birth record; or
- c) A child who has a history of multiple (three or more) disrupted foster or adoptive placements that are documented in **TFACTS**.
- d) A child who meets the definition of Safe Haven
- e) A child diagnosed with Neonatal Abstinence Syndrome (NAS)

2. Process for Deferred Adoption Assistance

- a) The process for making an application for Deferred Adoption Assistance requires the Family Service Worker (FSW) or the Permanency Specialist to obtain documentation from the licensed physician, psychiatrist, psychologist, or other licensed mental health professional regarding the child's high risk factors. In situations where the high risk factor is specific to the child's condition, documentation must be obtained from the licensed professional responsible for the child's treatment and care. Examples of documentation include, but are not limited to, medical exam results or psychological or psychiatric evaluations.
- b) The Family Service Worker (FSW), Permanency Specialist, or Private Provider representative will work with the adoptive family to complete (including all signatures) forms **CS-0930, Application for Adoption Assistance**, and **CS-0513, Adoption Assistance Agreement**. Upon completion of these documents, the forms and all documentation must be submitted for approval to the Team Leader of the Permanency Specialist.
- c) Children eligible for Title IV-E deferred Adoption Assistance can receive Medicaid, but will receive a "zero" amount monthly payment until a diagnosis is made. A child determined eligible for state deferred Adoption Assistance is not eligible for Medicaid.
- d) The adoptive parents may request active Adoption Assistance at the time they believe their child meets the special needs definition, based on the high risk factors identified in their application and agreement for Deferred Adoption Assistance.

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- e) The family will make a request to their DCS Subsidy Specialist so that their request can be reviewed and processed for approval.
- f) When the request is approved for a deferred agreement to become active, the effective date to begin the payment should be the first day following the month the approval was granted.
- g) Once approval is granted, the Central Office Subsidy Specialist will revise the deferred agreement to change the Adoption Assistance category from “Deferred” to “Active”; include the daily subsidy rate and effective date that payment will begin.
- h) The Central Office Subsidy Specialist will provide revised agreements to the adoptive parent(s), Child Welfare Benefits staff, include in the TFACTS subsidy record, and the hard copy Adoption Assistance file.
- i) State Funded agreements will be reviewed periodically to determine continued eligibility.
 - ◆ Special Circumstances and Extraordinary Adoption Assistance rates will be reviewed annually. The renewal date will be the first day of the following month in which the approval was granted the following year. **Example:** Approval was granted for a special or extraordinary Adoption Assistance rate on November 13, 2011. The effective date will be December 1, 2011. The renewal date will be December 1, 2012
 - ◆ Regular Adoption Assistance rates will be reviewed periodically.
- j) Title IV-E funded agreements will be reviewed at age 18, to determine continued eligibility.
- k) All Adoption Assistance agreements are subject to periodic review. The Department of Children’s Services reserves the right to make corrections due to errors or oversight.

Licensed Child Placing Agency must obtain approval of the child’s high risk and eligibility for deferred Adoption Assistance from the Team Leader of the Permanency Specialist.

3. Services Availability

- a) Active Adoption Assistance may be requested by the adoptive parents at the time they believe their child meets special needs definition based on high risk factors identified in their Adoption Assistance application.
- b) No Adoption Assistance payments will be made until special needs definition is met.
- c) If a child who had a deferred application for Adoption Assistance becomes eligible for Adoption Assistance maintenance payment, no retroactive payments or services can be made.
- d) No services are identified for deferred Adoption Assistance until the child exhibits problems related to those high risk factors that are identified and documented in *CS-0930, Adoption Assistance Application. Exceptions for approval may be made on a case by case basis with the approval of the Director of Foster Care and Adoptions so long as the child meets one or more of the special needs factors as outlined in DCS Policy 15.11, Adoption Assistance.***

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4. Completion of Forms

Form CS-0930, Application for Adoption Assistance and form **CS-0513, Adoption Assistance Agreement** are the only forms to be completed for Deferred Adoption Assistance. The application and agreement must be signed and approved by Adoption Program staff prior to finalization of the adoption. Copies of **CS-0930, Application for Adoption Assistance and CS-0513 Adoption Assistance Agreement**, must be given to the adoptive parent and copies maintained in the Adoption Assistance file.

5. Case Maintenance

No renewal is required for Deferred Adoption Assistance.

Deferred Adoption Assistance must be terminated when any of the following conditions exist:

- a) The child reaches age 18;
- b) The parents are no longer legally responsible for the support of the child;
- c) The child is no longer receiving support from the adoptive parents; or
- d) The adoptive parent in a one-parent family dies or both adoptive parents in a two-parent family die.

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Section 15: REVISING/RENEGOTIATING ADOPTION ASSISTANCE

What: Revise Adoption Assistance agreements

When: A change in circumstances is reported

Who: Central Office Subsidy Staff

1. When should an Adoption Subsidy be renegotiated?

- a) At parent(s) request;
Adoptive parents may request a revision/renegotiation in their Adoption Assistance at any time the child's circumstances change.
- b) Child re-enter state's custody;
When a child re-enters state custody, the Central Office Adoption Staff will renegotiate the amount of the daily Adoption Assistance rate with the adoptive parent. (See [Protocol for Adoption Assistance/Subsidized Permanent Guardianship When Children Re-enter State Custody or Placed in Out of Home Care](#), and use form **CS-0936, Adoption Assistance – Subsidized Permanent Guardianship Renegotiations**).
- c) When a child returns home from a re-entry custody episode
- d) At renewal of a State Funded Adoption Assistance agreement;
- e) If DCS determines a renegotiation is deemed necessary due to treatment needs of the child increases or decreases; or
- f) When DCS determines a correction is needed for errors in the Adoption Assistance Agreement;
- g) The child reaches their 18th birthday.
Evaluate the child's eligibility for either Title IV-E or State Funding based on written documentation submitted by the adoptive parent. Complete form: **CS-0792, Review of Eligibility for Adoption Assistance for Child Turning 18, 19 and 20 Years Old**. (See DCS Policy [15.11, Adoption Assistance](#) and **Section 12, Availability of Adoption Assistance based on Child's Age**).

2. What should DCS consider in their renegotiation with adoptive parents?

- a) The needs of the child and family ;and
- b) The supporting documentation to justify the requested Adoption Assistance rate.

3. Processing a renegotiated or revised agreement

- a) Central Office Subsidy staff will review documentation provided by the adoptive family.

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- b) The Central Office Subsidy staff will complete form **CS-0674, *Special or Extraordinary Rate Request***, and submit with supporting documentation, along with form **CS-0934, *Special or Extraordinary Rate Justification***, to Designated Central Office Subsidy Supervisor.
- c) All revisions must begin the first day of the month and end the last day of the month. A revision only in the Adoption Assistance Agreement does not change the renewal date.
- d) All required Adoption Assistance forms must be fully completed when doing the renewal. (**See Section 16, *Renewing Adoption Assistance***).
- e) Complete **CS-0461, *Adoption Assistance Agreements Applied for Prior to October 1, 1997***, or **CS-0513, *Adoption Assistance Agreement***, as appropriate.
- f) Complete a new **CS-0461, *Adoption Assistance Agreement***, or **CS-0513, *Adoption Assistance Agreement***, to reflect a change in the amount of the daily rate amount or change in the funding source. (**See Section 7, *Determining the Daily Rate***)

4. Obtaining approval

Upon completion of the revision, forward the following necessary documents to the Designated Central Office Subsidy Supervisor for approval:

- a) Adoption Assistance Agreement;
- b) Verification of school attendance if age 18;
- c) Benefit award letter; and/or
- d) Report from the treatment facility.
- e) **CS-0934, *Special or Extraordinary Rate Justification Form*** (if applicable)
- f) Medical/psychological documentation
- g) **CS-0686, *Notice of Denial, Termination, or Change in Adoption Assistance***
- h) **CS-0403, *Appeal for Fair Hearing***
- i) **CS-0674, *Special or Extraordinary Rate Request***

NOTE: If the child is 18, is receiving Title IV-E Adoption Assistance, and does not have a physical or mental condition, continue assistance through State Funding if you receive written verification of high school attendance. (See DCS Policy [15.10 Adoption Assistance Agreements Created Prior to October, 1997](#) and DCS Policy [15.11 Adoption Assistance](#).)

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Section 16: RENEWING STATE FUNDED ADOPTION ASSISTANCE

- What:** Ensure the correct process for the adoptive parents to renew State Funded Adoption Assistance.
- When:** Begin process 90 days prior to the renewal date.
- Who:** Central Office Subsidy Staff

State Funded agreements will be reviewed periodically to determine continued eligibility.

Process

- ◆ Special Circumstances and Extraordinary Adoption Assistance rates will be reviewed annually. The renewal date will be the first day of the month, in which the adoption was made final, the following year. **Example:** The adoption was finalized at a Special or Extraordinary Adoption Assistance rate on November 13, 2011. The effective date will be November 13, 2011. The renewal date will be November 1, 2012.
- ◆ Regular Adoption Assistance rates will be reviewed periodically.
- ◆ Renewals not completed within the designated time frame will require a renewal agreement to cover the renewal period. It is permissible to continue the Adoption Assistance payment during the missed renewal period, as long as there is sufficient documentation to support the Adoption Assistance rate.

1. First Notice

The Subsidy Specialist must send the renewal affidavit to the adoptive parent at least 90 days prior to the renewal date, requesting that they review, sign, and have document notarized before returning the form to the Subsidy Specialist. The Subsidy Specialist will provide the parents with the appropriate documents to complete the renewal process.

2. Second Notice

- a) If the Renewal Affidavit, with supporting documentation and all other necessary information, has not been received, send a second letter by certified mail at least 60 days prior to the renewal date.
- b) The adoptive parents must return a completed form **CS-0459, Subsidy Renewal Affidavit** within the timeframes outlined in the Adoption Assistance Agreement to the Central Office Subsidy Unit.
- c) Unless the adoptive parents can show good cause, failure by the adoptive parents to return the Renewal Affidavit within the specified timeframes, may result in termination of the

Adoption Assistance and the case will not be reopened. Decisions to allow late submissions of documentation will be made on a case-by-case basis and approved at the discretion of the Division of Foster Care and Adoptions.

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3. Verifying Assistance

Written verification must be obtained of the following:

- a) Medical/psychological/psychiatric needs when these services are being utilized;
Note: For children receiving Special or Extraordinary rates, parent(s) are required to submit verification from their child's licensed treatment services provider.
- b) Verification if the child continues to reside in the family home;
- c) For children not residing in the family home, the Subsidy Specialist should ask the parent(s) to submit a letter to DCS providing the child's current address, explaining if they (the parents) are still legally responsible; and how they are providing financial support to the child;
- d) If the parents continue to be legally responsible for the child;
- e) If the parents continue to provide support to the child; and
- f) If the child is 18 and has State Funded assistance, verify in writing that the child is in school by using **CS-0809, Verification of Full Time School Attendance Form**; other forms of verification may be acceptable.

4. Renewal Process

- a) The renewal/renegotiation of State Funded Adoption Assistance is required periodically in order for Adoption Assistance, at any rate, to continue.
- b) Upon receipt of the renewal information from the adoptive parent, the Subsidy Specialist will review documents submitted by the parent for accuracy, and to make sure that supporting documentation continues to justify rates that are above the regular Adoption Assistance rate.
- c) If the child receives a Special Circumstance or Extraordinary Adoption Assistance rate, and the documentation does not justify the rate, the parent will be notified to discuss what additional information might be needed to continue the rate, or if the submitted documentation is not enough to justify the rate and the rate has to be renegotiated to another rate. If the rate has to be renegotiated and/or revised, follow steps in **Section 15, Revising/Renegotiating Adoption Assistance**.
- d) In cases where documentation or the Subsidy Renewal Affidavit is received after the due date, the effective date will be the date the documentation is reviewed and determined sufficient to continue the Adoption Assistance payment or can be made effective on a different date as determined by the Division of Foster Care and Adoption so long as the agency has sufficient documentation to support the approved adoption assistance rate. If the documentation is determined insufficient, the Subsidy Specialist will contact the family to renegotiate the rate and revise the agreement to reflect the appropriate rate. The effective date for the revised rate will be the first date of the month in which the approval was granted or can be made effective on a different date as determined by the Division of Foster Care and Adoption so long as the agency has sufficient documentation to support the approved adoption assistance rate.
- e) If there is no revising/renegotiating of the rate, proceed with the distributing for the forms to the appropriate individuals, as listed below.

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5. Forms Distribution

Ensure that the Adoption Assistance Renewal Affidavit is completed and distribute copies as follows:

- a) Send the copies of the Affidavit to the adoptive family, upon request of the adoptive parent;
- b) Copy to Child Welfare Benefits Counselor;
- c) Maintain local office copy of Adoption Assistance Renewal Affidavit; and
- d) Upload into TFACTS

6. Packet Contents

The Adoption Assistance renewal packet must contain the following:

- a) **CS-0459, Adoption Assistance Renewal Affidavit** or **CS-0513, Adoption Assistance Agreement**;
- b) Statement verifying child's school attendance, if required (**CS-0809, Verification of Full Time School Attendance**);
- c) Verification that child continues to reside in the home with the family or for children not residing in the family home. Staff should ask the parent(s) to submit a letter to DCS providing the child's current address, explaining if they (the parents) are still legally responsible; and how they are providing financial support to the child; and
- d) Form **CS-0934, Special or Extraordinary Rate Justification**, verifying child's physical or mental handicapping condition, if required. (When a child is currently receiving a medical/psychological/psychiatric service, a professional statement must be provided at the time of the renewal each year documenting the ongoing need and treatment.)

NOTE: File all of the above with the most recent documentation on top, and uploaded into TFACTS. Adoption Assistance files must be in accordance with [Protocol for Adoption Assistance Case File Contents](#) and **TFACTS**.

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Section 17: DENYING ADOPTION ASSISTANCE

- What:** Deny Adoption Assistance Benefits
- When:** Any eligibility requirement is not met
- Who:** Central Office Subsidy Staff

1. Circumstances

DCS will deny Adoption Assistance benefits at the time of application when one of the following conditions exists:

- a) The child does not meet special need determination prior to adoption (See DCS Policy [15.11, Adoption Assistance](#));
- b) An eligibility determination for Adoption Assistance is not made prior to adoption finalization;
- b) DCS cannot provide the service requested within the Adoption Assistance guidelines;
- c) An application for Adoption Assistance is made after finalization of the adoption has occurred;
- d) All appropriate forms to include the Adoption Assistance application and agreement are not signed and approved by the adoptive parent (s) and the DCS representative;
- d) The child was not in the guardianship of DCS or a Licensed Child Placing Agency immediately prior to finalization of the adoption; and/or
- e) The adoptive family does not have an approved home study.

2. Completing Form

Permanency Specialists or Central Office Subsidy Staff will complete **CS-0930, Application for Adoption Assistance**, stating specific reason for denial.

3. Notification

The Permanency Specialist or Central Office Subsidy Staff will notify the adoptive family, in writing, within five working days of the decision of the reason for denial and the right to appeal, if applicable, as determined by the Division of Foster Care and Adoption (**See Section 20, Processing Appeals**).

A copy of the denial notification is to be filed in the Adoption Assistance Case Record, and into **TFACTS**.

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Section 18: REVIEW OF ELIGIBILITY FOR YOUTH TURNING 18, 19 OR 20

- What:** Determines child's continued eligibility for Adoption Assistance
- When:** Begin process 90 days prior to child's 18th, 19th, and 20th birthday
- Who:** Central Office Subsidy Staff

An eligibility determination must be completed, in TFACTS, for all youth turning 18, 19, or 20 years old to determine if the youth will remain eligible for the Adoption Assistance subsidy past the age of 18. Continued eligibility for youth 18, 19, or 20, regardless of the funding source is determined through a Review of Eligibility process within TFACTS based on the Adoption Assistance program requirements.

Eligibility for State Funded and Title IV-E Fostering Connections Adoption Assistance for youth 18, 19, and 20 years old is based on continual full time school enrollment and attendance. Breaks in full time attendance and enrollment will disqualify the youth for continued eligibility. The only exception is in instances where the educational institution considers the break to be normal or customary for the school year. Other exceptions can be made on a case by case basis at the discretion of the Director of Foster Care and Adoption so long as the exception does not violate state and federal law concerning adoption assistance program eligibility requirements.

Adoption Assistance Program Requirements

1. **Title IV-E Adoption Assistance:** A child/youth determined eligible for Title IV-E Adoption Assistance can continue to have their adoption subsidy funding through Title IV-E until the age of 21 if one of the following is true:
 - a) The youth is under the age of 21 and the Adoption Assistance agreement was made effective prior to July 1, 2012 and has a disability/handicapping condition, documented by a licensed provider, which requires treatment, to warrant the continuation of the Title IV-E subsidy payment; In situations where the youth is considered to have a permanent mental health/medical condition as documented by a licensed professional, but is not receiving on going treatment, it is permissible for the state agency (DCS) to continue the subsidy payment past the youth's 18th birthday so long as the permanent condition is documented in the youth's adoption assistance file; or
 - b) The youth is under the age of 21 and the Adoption Assistance agreement was effective on or after July 1, 2012 to current date and has moderate to severe disability/handicapping condition, documented by a licensed provider, which requires treatment or substantially limits the child or youth in one or more major life functions, to warrant the continuation of the Adoption Assistance subsidy payment.
2. **Title IV-E Fostering Connections Adoption Assistance who was *UNDER the age of 16 at the time of adoption finalization:*** A child/youth determined Title IV-E Fostering Connections Eligible and was under the age of 16 years at the time of adoption finalization can continue to receive an Adoption Assistance subsidy payment through Title IV-E Fostering Connections until the age of 18. The subsidy can be evaluated prior to the youth's 18th birthday to determine if youth can continue to receive a subsidy through Non-Applicable Title IV-E or State Funded Adoption Assistance. See the Change in Funding Source section below.

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3. Title IV-E Fostering Connections Adoption Assistance for youth **who were age 16 or older at the time of adoption finalization**: A child/youth determined Title IV-E Fostering Connections eligible and was **16 or older at the time of adoption finalization** can continue to receive Adoption Assistance subsidy payment until they reach the age of 21 years if one of the following are true;
 - a) The youth is under the age of 21 and is a full time student in high school; or
 - b) The youth is under the age of 21 and is a full time student in an institution which provides post-secondary or vocational education;
 - c) The youth is determined incapable for employment or attending school due to a medical condition documented by a licensed provider;
 - d) Youth determined ineligible for Title IV-E Fostering Connections subsidy payments beyond the age of 18 years can be evaluated for non-applicable Title IV-E.
4. State Funded Adoption Assistance is available to youth beyond the age of 18 years provided they meet certain eligibility requirements to include one of the following below;
 - a) **Prior to October 1, 1997**: The youth is under the age of 21 years, is a full time student in any accredited school, and their Adoption Assistance agreement was made effective prior to October 1, 1997.
 - b) **October 1, 1997 – February 29, 2008**: The youth is under the age of 21 years, is a full time student in high school and their Adoption Assistance agreement was made effective between October 1, 1997 through February 29, 2008.
 - c) **March 1, 2008 to current date**: and their Adoption Assistance agreement was made effective on or after March 1, 2008.
5. Youth determined ineligible to continue funding through Title IV-E (non-applicable) or Title IV-E Fostering Connections (applicable) can have their Adoption Assistance agreement funded through another funding source provided the youth meets certain requirements to include the following:
 - a) Title IV-E Fostering Connections eligible youth **who was under the age of 16 when the adoption was made final** can have their subsidy payment funded through Title IV-E if the following;
 - ◆ youth was determined eligible for Title IV-E Fostering Connections and Title IV-E prior to adoption;
 - ◆ has been determined ineligible to continue funding through Title IV-E Fostering Connections for youth 18 or older;
 - ◆ The Adoption Assistance agreement was effective prior to 7/1/2012 and the youth has a handicapping condition/disability, which requires treatment, and warrants the continuation of the subsidy payment (See requirement #1A above). The Adoption Assistance agreement was effective on or after 7/1/2012 and the youth has a moderate to severe condition/disability or substantially limits the child/youth in one or more major life functions, which requires treats, and warrants the continuation of the subsidy payment (See #1B above):

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- ◆ Documentation from licensed provider is required to determine continued eligibility. The only exception is for youth receiving ABA services. In this situation, the provider must be board certified (See DCS Policy [15.11, Adoption Assistance](#), Section G.1).
- b) Title IV-E Fostering Connections eligible youth who were at least 16 years old at the time of adoption can have their Adoption Assistance funded through Title IV-E if the following is true:
- ◆ The youth was determined eligible for Title IV-E Fostering Connections and Title IV-E prior to adoption;
 - ◆ The youth has been determined ineligible to continue funding through Title IV-E Fostering Connections for youth 18 or older;
 - ◆ The Adoption Assistance agreement was effective on or after 7/1/2012 and the youth has a moderate to severe handicapping condition/disability, which requires treatment, and warrants the continuation of the subsidy payment. The Adoption Assistance agreement was effective on or after 7/1/2012 and the youth has a moderate to severe condition/disability or substantially limits the child/youth in one or more major life functions, which requires treats, and warrants the continuation of the subsidy payment;
 - ◆ Documentation from licensed provider is required to determine continued eligibility. The only exception is for youth receiving ABA services. In this situation, the provider must be board certified, (DCS Policy [15.11, Adoption Assistance](#), Section G.1).
- c) Youth determined Title IV-E eligible can have their Adoption Assistance agreement funded through State Funds if one of the following is true:
- ◆ Prior to **October 1, 1997**: The youth is under the age of 21 years, is a full time student in any accredited school, and their Adoption Assistance agreement was made effective prior to October 1, 1997;
 - ◆ **October 1, 1997 – February 29, 2008**: The youth is under the age of 21 years, is a full time student in high school and their Adoption Assistance agreement was made effective between October 1, 1997 through February 29, 2008;
 - ◆ **March 1, 2008 to current date**: The youth is under the age of 19 years, is a full time student in high school and their Adoption Assistance agreement was made effective on or after March 1, 2008;
 - ◆ The youth s under the age of 21 years;
 - ◆ Verification of full time school attendance is required to determine continued eligibility.
- d) Youth determined Fostering Connection eligible can have their subsidy funded through State Funds if the following is true:
- ◆ The youth was under the age of 16 at adoption finalization;
 - ◆ The youth has been determined ineligible for Title IV-E Fostering Connections; and
 - ◆ The youth is under the age of 19 and attending high school full time;
 - ◆ Verification of full time school attendance is required to determine continued eligibility through state funds.

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Review of Eligibility Process:

All subsidies must be evaluated to determine continued eligibility for Title IV-E, Title IV-E Fostering Connections, or State Funded Adoption Assistance prior to age 18 and subsequently each year thereafter prior to each impending birthday until the youth reaches the age of 21. During the evaluation period, if it is determined that the youth does not meet any of the conditions to continue IV-E or Fostering Connections IV-E, but does meet one of the criterion for State Funded Adoption Assistance, the agency (DCS) will allow the Adoption Assistance agreement to remain in effect, but change the funding from IV-E to State, effective the date of the youth's birthday in which the child became ineligible for Title IV-E. The same logic would apply for youth who are no longer eligible to continue Title IV-E Fostering Connections, but are determined eligible to continue Adoption Assistance through standard IV-E or State Funding.

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Section 19: TERMINATING ADOPTION ASSISTANCE

What:	Terminate Adoption Assistance Benefits when circumstances occur that create a change in eligibility
When:	Change in circumstances causes termination
Who:	Central Office Subsidy Staff

1. Evaluation

DCS must terminate Adoption Assistance benefits any time after approval when one of the following conditions exists:

- a) Upon the adoptive parents(s) request;
- b) DCS determines that the adoptive parents are no longer providing any support to the child;
- c) DCS determined that the adoptive parents are no longer legally responsible for support of the child;
- d) Upon the conclusion of the terms of the Adoption Assistance Agreement;
- e) The child marries;
- f) The child enlists in military service;
- g) The child dies. The effective date for termination of the adoption assistance agreement will be the first day of the following month in which the child died; or
- h) The adoptive parent (s) dies. The effective date for termination of the adoption assistance agreement will be the first day of the following month in which the adoptive parent (s) died;
 - ◆ When the person with whom a subsidy agreement is made dies before the adoptive child reaches age eighteen (18), Adoption Assistance Subsidy payments can be continued to the legal guardian of the child until he or she reaches age eighteen (18) or, in some cases, age twenty-one (21) once the guardian legally adopts the child. The request and agreement procedure would be the same as outlined in *Sections D and E* of DCS Policy [15.11, Adoption Assistance](#).
- i) DCS determines that the family fails to complete the renewal/renegotiation process within the timeframes outlined in the Adoption Assistance Agreement (**for state-funded adoption agreements, only**);
- j) State Funded children that were adopted before October 1, 1997 can continue to receive Adoption Assistance as long as they attend any accredited school full time or up to age 21. School attendance must be documented yearly;
- k) State Funded children that were adopted between October 1, 1997 and February 29, 2008 can receive Adoption Assistance as long as they are in high school full time or up to the age of 21. School attendance must be documented yearly.

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- l) Children adopted on or after March 1, 2008, who have State Funded Adoption Assistance and remain in high school full time, their Adoption Assistance ends at high school graduation or age 19, whichever event occurs first. School attendance must be documented yearly.
- m) For Title IV-E non-applicable children, Adoption Assistance will be provided until the child is 21 years of age if the child has a documented mental or physical disability, which warrants continuation as determined within TFACTS or form **CS-0792, Review of Eligibility for Youth Turning 18, 19, or 20.**
- n) For Title IV-E applicable children, Adoption Assistance will be provided until the child is age 21 and if they were at least 16 years old at the time of adoption finalization, are a full-time high school student or in an approved secondary educational program leading to an equivalent credential and is expected to graduate by their 21st birthday.
- o) When a child/youth adopted on or after October 1, 2010, who has been determined Title IV-E eligible, and was at least 16 years old at the time of their adoption, graduates from an institution, which provides post-secondary or vocational education graduates, or turns age 21, whichever comes first.
- p) When a child/youth adopted on or after October 1, 2010, that has been determined Title IV-E eligible, and was at least 16 years old at the time of their adoption, becomes capable of employment or attending school that has previously been identified as incapable by a medical professional.
- q) Title IV-E Adoption Assistance payments can continue for youth who were under the age of 16 when their adoption finalized, if the youth has a disability which warrants the continuation of Adoption Assistance. If the youth does not have a disability which warrants the continuation of the IV-E subsidy, the IV-E payment must be terminated effective the date of the youth's birthday in which the youth became ineligible for the Title IV-E payment. Once the IV-E payment is terminated, the Adoption Assistance agreement can be funded through State dollars if the youth is still in high school and under the age of 19. In these situations, a revision to the Adoption Assistance agreement is required changing the funding source from IV-E to State.

NOTE: If a child is in DCS custody, residential treatment, living outside the home of the adoptive parents, or over age 18 and in school, and meets the criteria for continuing to receive Adoption Assistance and the parents are continuing to contribute to the support of the child, the child may continue to receive Adoption Assistance. However, if the parents are not contributing to the support of child, DCS will discontinue Adoption Assistance. **(See Section 15, Revising/Renegotiating Adoption Assistance).**

2. Completing Form

Complete form **CS-0513, Adoption Assistance Agreement**. Make sure to include reason for termination on the agreement.

3. Effective Date

Adoption Assistance may be terminated at any time during the month when the child ceases to be eligible.

4. Distribution

Submit all copies to the Central Office Subsidy Staff for approval.

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One copy of the agreement is to be maintained in the Adoption Assistance case record, one copy is uploaded into TFACTS, one copy is sent to the Child Welfare Benefits Worker. (See: DCS Policy [15.14, Adoption Assistance Case File Contents](#) and [Protocol for Adoption Assistance Case File Content](#)).

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Section 20: PROCESSING APPEALS

What: Process appeals of decision to revise, terminate, or deny Adoption Assistance benefits.

When: An appeal is requested by the adoptive family.

Who: Central Office Subsidy Staff

Note: This process should be documented in TFACTS in the Appeals Section.

1. Circumstances

Whenever DCS revises, terminates, or denies Adoption Assistance, the Adoptive parents may appeal the decision in accordance with the rules and procedures of the State's fair hearing and appeal process. If they appeal within ten days of the written notice from DCS, assistance continues pending appeal.

NOTE: If the parents request termination or the adoption assistance is terminating due to the youth turning age 21, it is not necessary to give notice of appeal (See DCS Policy [15.11. Adoption Assistance](#)), it is not necessary to give notice of appeal.

2. Contact/Written Notice

- a) Contact the adoptive family and discuss case revision/termination/denial, giving reasons for the decision.
- b) Also, provide a written notice, listing all reasons for the decision utilizing form **CS-0686, Notice of Denial, Termination, or Change in Adoption Assistance**.
- c) Form **CS-0403, Appeal for Fair Hearing**, must be given to the adoptive parent(s) at the same time form **CS-0686, Notice of Denial, Termination or Change in Adoption Assistance**, is given.
- d) The family must be informed about the timeframe in which they have to file an appeal. They must also be provided with the fax number and mailing address to send form **CS-0403, Appeal for Fair Hearing**.
- e) Explain the adoptive family's right to appeal the decision.

3. Completing Form

Upon the adoptive family's decision to appeal, have the adoptive family complete the form **CS-0403, Appeal for Fair Hearing**.

4. Appeal Summary

Prepare an Appeal Summary within time frame requested by the Administrative Procedures Division and distribute the copies to the following:

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- a) Appeals Hearing Officer (original)Administrative Review Judge;
- b) Adoptive family or their representative;
- c) Central Office Subsidy Supervisor;
- d) Commissioner's Office (only if discrimination is the issue);
- e) Adoption Assistance case record; and
- f) Area/Regional legal counsel.

5. Appeal Hearing

The Appeals Hearing Officer/Administrative Review Judge schedules the hearing.

The adoptive family may have an attorney present. Designated CO Staff will contact area legal counsel to request their participation/advice.

Central Office Designated Staff will attend the hearing and testify giving policy/procedures which were in effect at the time of adoptive placement to support the decision to reduce, terminate, or deny Adoption Assistance benefits.

6. Decision of Appeal Hearing Officer

The Hearing Officer/Administrative Review Judge will issue an order outlining the outcome of the appeal. The adoptive parents and/or the Central Office designated staff may request a reconsideration of the decision by the appeals officer. The adoptive parents may, as a final recourse, file such in Chancery Court.

DCS will comply with the final order in this case.

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Section 21: REQUEST FOR ADOPTION ASSISTANCE AFTER FINALIZATION

What: Provide Adoption Assistance Application for the family to complete.

When: Upon request of the adoptive family.

Who: Central Office Subsidy Staff

1. Request for Adoption Assistance after Finalization

Form **CS-0930, *Application for Adoption Assistance***, will be made by the adoptive parents in the area office serving the adoptive parents' county of residence.

Out-of-state adoptive parents who resided out-of-state at the time the child was placed by a Licensed Child Placing Agency may apply for Adoption Assistance in the area office serving the county from where the child was placed for adoption.

Tennessee residents who adopted and moved out-of-state may apply for Adoption Assistance in the area office serving the county of their residence at the time of finalization.

2. Process

The application is made by the adoptive parents by completing form **CS-0930, *Adoption Assistance Application***.

Form **CS-0930, *Application for Adoption Assistance***, filed after the finalization of the adoption, must be denied on the basis the adoption has been finalized and the Special Needs Determination was not made prior to adoption finalization. According to section 473 of the Social Security Act, the determination of special needs must be made by the State agency (DCS) prior to the finalization of the adoption.

The denied application for Adoption Assistance will be mailed to the adoptive family along with the form **CS-0686, *Notice of Denial, Termination, or Change in Adoption Assistance***, and form **CS-0403, *Appeal for Fair Hearing*** explaining the reason for the denial.

The adoptive parents may appeal DCS's denial of Adoption Assistance in accordance with the rules and procedures of the State's fair hearing and appeal process. (**See Section 20, *Processing Appeals***).

During the appeal process the adoptive parents are responsible for providing documentation of the child's eligibility for Adoption Assistance prior to finalization and that known information regarding child's eligibility was withheld.

The Department is responsible for reviewing the information provided by the parent as evidence that the child should have been eligible for Adoption Assistance prior to adoption finalization and requesting information from the sealed adoption record for the purpose of conducting a documentation review to establish if the child met the eligibility criteria for Active or Deferred Adoption Assistance. The following should be considered during the review and evaluation process:

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- a) Determine if the child was in guardianship of DCS or a Licensed Child Placing Agency prior to the adoption episode in which it was determined that the child was ineligible for Adoption Assistance;
- b) Determine if, at the time of adoption, that it was reasonable to conclude the child could not be adopted without Adoption Assistance or Title XIX medical assistance (TennCare) because the child met one or more of the special needs factors outlined in the Adoption Assistance policy that was in effect at the time the child was adopted;
- c) Determine if there was evidence which supports the following;
 - ◆ The adoptive parents expressed that they could not adopt the child without being awarded Adoption Assistance or Title XIX medical assistance (TennCare); or if
 - ◆ The child was placed in the adoptive home as a foster care placement and the adoptive family and child had developed significant emotional ties and the department determined that it was in the child's best interest to be adopted by the adoptive family.
- d) Determine if relevant facts regarding the child were known by DCS or the Child Placing Agency, but not presented to the adoptive parent (s) prior to the finalization of the adoption;
- e) Determine if DCS or the Child Placing Agency failed to advise the adoptive family about the availability of Adoption Assistance;
- f) Determine if DCS or the Child Placing Agency failed to complete the required paperwork for the approval of Adoption Assistance prior to the finalization of the adoption.

NOTE: If the appeal decision is in favor of the child receiving Adoption Assistance, the same procedures are to be followed as in an application filed prior to finalization. The effective date for payment will be the date the decision was made during the appeal hearing, unless the Administrative Reviewer gives an alternate effective date for payment to begin or an alternative date is agreed upon between DCS and the adoptive family. (See DCS Policy [15.11, Adoption Assistance](#)).

Adoption Assistance Forms

[CS-0403 Appeal for Fair Hearing](#)

[CS-0460 Intent to Adopt Placement Agreement](#)

[CS-0461 Adoption Assistance Agreements Applied for Prior to October 1, 1997](#)

[CS-0476 Notification of Change of Circumstances-Child Welfare Benefits Form](#)

[CS-0513 Adoption Assistance Agreements Created on or After October 1, 1997](#)

[CS-0674 Special or Extraordinary Rate Request](#)

[CS-0686 Notice of Denial, Termination, or Change in Adoption Assistance](#)

[CS-0792 Review of Eligibility for Adoption Assistance for Child turning 18, 19, and 20 years old](#)

[CS-0809 Verification of Full Time School Attendance](#)

[CS-0821 Certification of Eligibility for Title IV-E State Funded Adoption Assistance](#)

[CS-0930 Application for Adoption Assistance](#)

[CS-0931 Certification of Eligibility for Title IV-E Fostering Connections Adoption Assistance](#)

[CS-0934 Special or Extraordinary Rate Justification](#)

[CS-0936 Adoption Assistance-Subsidized Permanent Guardianship Renegotiation](#)

[CS-1004 Adoption Subsidy Renewal Affidavit](#)

Part II- Subsidized Permanent Guardianship

Subsidized Permanent Guardianship Introduction

Subsidized Permanent Guardianship first began in Tennessee as a Title IV-E waiver demonstration project on December 6, 2006. The project was successful in improving permanency and safety outcomes for children and families in approved relative and kin placement settings. The state of Tennessee used the waiver demonstration to test whether the introduction of a Subsidized Permanent Guardianship benefit would result in an increase of permanency and safety for children and provide improvement in a range of child outcomes such as reduced length of stay in foster care and improved stability in care.

On October 7, 2008 the Fostering Connections to Success and Increasing Adoptions Act (P.L. 110-351) was signed. This Act provides the most significant federal reforms for abused and neglected children in more than a decade. Tennessee's modified state plan was approved by the Children's Bureau effective April 1, 2009.

The Federal Guardianship Assistance Program (GAP) in Tennessee can be referred to as the Subsidized Permanent Guardianship (SPG) program. The points below are the highlights of the federal legislation requirements:

- a) The requirement for identification of and notice to relatives within 30 days when a child is removed from the custody of the birth parents.
- b) A requirement to maintain sibling connections. DCS always makes an effort made to place siblings together unless contrary to their safety or well-being.
- c) When siblings are not placed together, reasonable efforts to maintain frequent sibling visitation or other ongoing interactions unless contrary to safety or wellbeing.
- d) There are considerations for case-by-case waivers for non-safety standards for relative/kin homes.

Requirement specific to SPG:

- a) State option to use Title IV-E for assistance to children who leave foster care for legal guardianship with a relative who they have lived with in foster care.
- b) Title IV-E SPG ensures children:
 - ◆ Non-recurring costs of establishing guardianship (up to \$2000);
 - ◆ Ongoing financial assistance not to exceed current foster care payment amounts;
 - ◆ Medicaid Eligibility;
 - ◆ Eligibility for Title IV-E Guardianship, if eligible at time of guardianship; and

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- ◆ Tennessee is able to claim reimbursement on the first day of the quarter in which a state plan amendment is submitted.

Children/youth are eligible for SPG if:

- a) They are eligible for Title IVE foster care maintenance payments for at least 6 consecutive months while living with the prospective relative/kin guardian **OR** the child/youth is state funded and has lived with the fully approved prospective relative/kin guardian for 6 consecutive months;
- b) They have a strong attachment to prospective guardian;
- c) Reunification and adoption are not appropriate permanency options for the child/youth; and
- d) The child is age **12** or older and has been consulted regarding the guardianship arrangement.

Eligible guardians:

- a) Must be a “relative or Kin”. See definition:

“All children and youth in Tennessee who have been living for a consecutive six months in an approved home of a person with whom he or she is related to by blood, marriage or adoption or with whom the child had a significant relationship that existed prior to DCS custody such as godparent, friend, neighbor, church member, minister or teacher.”

- b) This definition does not include traditional Resource Parents unless the Resource Parent had a pre-existing significant relationship with the child/youth as noted in the definition above.

Legal Base:

- Fostering Connections to Success and Increasing Adoptions Act 2008 (P.L. 110-351)
- TCA 37-5-106, 37-1-801 et seq
- Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183)

Standards: DCS 2-102, 2-104A, 2-501, 2-600

COA: PA-FKC 4.02, PA-FKC 4.04, PA-FKC 12.03, PA-FKC 12.07, PA-FKC 14.04, PA-FKC 15.01-15.04

Policies:

- [15.16 Subsidized Permanent Guardianship Case File Contents](#)
- [16.4 Foster Home Approval](#)
- [16.8 Responsibilities of Approved Foster Homes](#)
- [16.20 Expedited Custodial Placements](#)
- [16.36 Title IV-E Foster Care Funds](#)
- [15.15 Subsidized Permanent Guardianship](#)

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Protocols:

- [Protocol for Subsidized Permanent Guardianship Case Planning](#)
- [Protocol for Court Exit of Child to Subsidized Permanent Guardianship](#)
- [Protocol for Adoption Assistance/Subsidized Permanent Guardianship When Children Re-Enter State Custody or Placed in Out of Home Care](#)

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SECTION 1: CRITERIA FOR SUBSIDIZED PERMANENT GUARDIANSHIP ELIGIBILITY

- What:** Determine Child's Eligibility for Subsidized Permanent Guardianship
- Who:** Permanency Specialist, FSW, Child Welfare Benefits Counselor and Supervisors
- When:** Prior to completion of application for Subsidized Guardianship

1. Criteria for Determining Eligibility:

In order for a child to be eligible for Subsidized Guardianship the child must meet **all** of the following criteria:

- a) DCS has determined that the child was in custody and/or guardianship of DCS immediately prior to the initiation of Permanent Guardianship proceedings;
- b) The custody and/or guardianship court order must reflect that the child has been removed from his or her home pursuant to a Voluntary Placement Agreement/Voluntary Surrender or as a result of a judicial determination.
- c) The child must be under age 18;
- d) DCS has determined that the guardian has met the definition for "relative or Kin" for the Subsidized Permanent Guardianship program: "The legal guardian of a child with whom the child is related to by blood, marriage, or adoption or with whom the child had a significant relationship that existed prior to DCS custody such as a godparent, friend, neighbor, church member or teacher";
- e) The prospective guardian(s) must complete all requirements as outlined in DCS Policy [16.4, Foster Home Approval](#), and be fully approved for six months;
- f) The child must be placed in the prospective guardian's home for six consecutive months at the time that the prospective guardian's home is fully approved;
- g) DCS has determined that reunification and adoption are not appropriate permanency options for the child;

Note: Refer to the [Protocol for Subsidized Guardianship Case Planning](#)

- h) The child demonstrates a strong attachment to the prospective guardian;

Note: A "strong attachment" is defined as a relationship that existed between the potential guardian and the child or family prior to DCS custody.

- i) The guardian has a strong commitment to caring permanently for the child; and
- j) A child who has attained 12 years of age must be consulted regarding the Permanent Subsidized Guardianship arrangement.

1. Title IV-E Eligibility Criteria

In order for a child to be eligible for Title IV-E Subsidized Guardianship through the Fostering Connections eligibility requirements they must:

- a) Meet all eligibility criteria listed in item 1; **and** the removal court order includes judicial determination by the court to the effect that continuation in the home would be contrary to the welfare of the child; and
- b) Meet all Title IV-E Foster Care Maintenance payment eligibility criteria for a consecutive six-month period. (See DCS Policy [16.36, Title IV-E Foster Care Funds](#)).

2. State Funded Eligibility Criteria

In order for a child to be eligible for State Funded Subsidized Guardianship they must:

- a) Meet all eligibility criteria listed in item 1; and
- b) Meet all eligibility criteria for State Funded Foster Care maintenance payments for a consecutive six-month period.

3. Eligible Siblings

Title IV-E Subsidized Permanent Guardianship eligible children that have a sibling(s) that is/are not eligible (State Funded or all criteria were not met) and are placed in the same guardian's home, Title IV-E Subsidized Permanent Guardianship assistance may be paid on that child's behalf to the same guardian if DCS and the relative agreed on the appropriateness of the arrangement for the sibling(s).

A child's funding source must be determined in TFACTS or in some instances eligibility may be determined via **CS-0917 Certification of Eligibility for Subsidized Permanent Guardianship**.

Note: Children may exit custody to Permanent Guardianship without a subsidy in accordance with **DCS Policy [16.31, Permanency Planning for Children/Youth in Department of Children's Services Custody](#)** if it is determined to be in the child/youth's best interest.

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SECTION 2: OBTAINING SUBSIDIZED GUARDIANSHIP FOR A CHILD IN DCS CUSTODY/GUARDIANSHIP

- What:** Obtaining approval for Subsidized Guardianship for a child in DCS custody/guardianship
- Who:** Permanency Specialist, FSW, Team Leaders, and Team Coordinators
- When:** The decision is made that placement with the guardian will occur.

1. Child's Eligibility

The child's Permanency Specialist or designated staff will obtain Central Office approval of the child's eligibility for Subsidized Guardianship by reviewing the documentation in the child's case file and in TFACTS.

- ◆ Consult with DCS attorney to ensure the custody order has the appropriate language;
- ◆ Consult with Child Welfare Benefits about funding source; and
- ◆ Consult with Resource Parent Support about the status of the relative/guardian's resource home.
- ◆ Permanency Specialists must follow the [Protocol for Court Exit of Child to Subsidized Permanent Guardianship](#).

2. Pre-approval Child and Family Team Meetings

- a) Discussion of all eligibility criteria listed in **Section 1, Criteria for Subsidized Permanent Guardianship Eligibility**, should be done in the context of Child and Family Team meetings (CFTMs) and documented on form **CS-0747, Child and Family Team Meeting and Summary** and/or documented within **TFACTS**.
- b) The following must be discussed and documented prior to approval of Subsidized Permanent Guardianship:
- ◆ Guardian's relative/kin relationship to the child/siblings;
 - ◆ Appropriateness of Permanent Guardianship goal;
 - ◆ Evaluation of Child-Guardian attachment and bonding;
 - ◆ For children/youth over age 12, inclusion of their opinion about placement in guardianship;
 - ◆ Guardian's commitment to the child/siblings;
 - ◆ Visitation;
 - ◆ Legal involvement/legal restrictions: includes court hearing, pending or current court orders, child support, or other legal mandates, etc.;
 - ◆ Continued Well-Being needs to include educational, medical, mental health, insurance coverage and continuation of benefits if eligible; and
 - ◆ Community Resources to include post permanency services, Department of Human Services (DHS), relative caregiver programs, recreational/extra-curricular programs, etc.

3. Post-CFTM approval

- a) After the subsidy record has been created, the subsidy record must be submitted to Central Office for approval.
- b) After approval is received from Central Office, the Child and Family Team may move forward with the court proceedings.

4. Documentation

The Permanency Specialist will ensure that the identified guardian completes **Part 1** of the Form **CS-0719, *Intent to Obtain Permanent Guardianship Placement Agreement and Application for Subsidized Guardianship.***

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SECTION 3: NEGOTIATING TYPE AND AMOUNT OF SUBSIDIZED GUARDIANSHIP PAYMENTS

- What:** Negotiate the type and amount of subsidized guardianship payments available to families and all of the conditions of the assistance.
- Who:** Permanency Specialist, FSW, Subsidy Specialist, Team Leaders and Team Coordinators
- When:** Prior to the completion of the application for Subsidized Guardianship payments

1. Subsidized Guardianship is available on behalf of a child if DCS enters into a Subsidized Guardianship Agreement with the guardian(s) prior to the final Permanent Guardianship court hearing. The Form **CS-0721, Subsidized Permanent Guardianship Agreement**, must be signed by all parties, specifically the guardian(s) and DCS agency representative(s) and a signed copy given to each party.

The agreement must specify the following and should be discussed with the guardian(s):

- a) Duration of the agreement;
- b) Nature and amount of any payment, service and assistance to be provided;
- c) Agreement shall remain in effect regardless of the State in which the guardian(s) reside;
- d) Interests of the child are protected in cases where the guardian(s) and child move to another state;
- e) No coverage is available for educational expenses (i.e. school tuition and/or tutoring);
- f) No coverage for summer camp or day care;
- g) No coverage for riding therapy, dance or gymnastics;
- h) No coverage for computers and/or computer software;
- i) No coverage for vehicles to transport children;
- j) No coverage for major home renovations or additions (i.e. fences, pools, or accessibility modifications);
- k) Child's eligibility for Title XIX medical assistance/Medicaid (TennCare);
- l) No coverage for routine medical expenses (i.e. over the counter medications, doctor visits or hospitalizations unrelated to the child's documented special needs);
- m) No coverage for dentistry or orthodontia (exceptions may be for documented cases of medical necessity by the Director of Foster Care, Adoptions);
- n) Method of payment for medical expenses; Only if child is ineligible for TennCare/Medicaid and/or private insurance;
- o) Method of payment for non-recurring expenses;

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- p) DCS' inability to authorize any new service unless such service is directly related to a condition that DCS documented as existing before the guardianship was final; and
- q) Possible changes in the Subsidized Permanent Guardianship Agreement when the family no longer needs a service, when changes occur in resources available to meet the child's needs, when changes occur in the Foster Care board rate, or for State Funded Subsidized Permanent Guardianship when changes occur because of the renewal process.
- r) The Department reserves the right to review all Subsidized Permanent Guardianship agreements for corrections and oversight.
- s) Whoever knowingly obtains, or attempts to obtain, or aids, or abets any person to obtain by means of willfully false statement or representation or by impersonation, or other fraudulent, or other fraudulent device, any assistance on behalf of a child or other persons pursuant to the Interstate Compact on Adoption and Medical Assistance to which such child or other person is not entitled or assistance greater than such child or other person is entitled, commits a Class E felony. ***(This means that making any statement that is not true OR failing to inform the Department of any later change that might affect the adopted child's eligibility for the current assistance rate can result in criminal charges.)***

2. Resources/Benefits

Please explain to the guardian(s) the following in regards to Subsidized Permanent Guardianship:

- a) The guardian(s) is to use other resources available or that become available before using Subsidized Permanent Guardianship. Other resources include private insurance, TennCare/Medicaid, and other agency services;
- b) Subsidized Permanent Guardianship will not pay medical expenses for children who are eligible for TennCare or private insurance and other non-profit agency services;
- c) DCS expects the guardian(s) to apply for and provide ongoing private insurance coverage through their current family coverage if the child is ineligible for Title XIX medical assistance/Medicaid (TennCare); and
- d) DCS expects the guardian(s) to apply for and notify DCS of receipt of other available benefits (SSA or other benefits) and that these benefits may affect the amount of Subsidized Permanent Guardianship they receive.

3. Change of Circumstances

Explain to the guardian(s) that it is their responsibility to notify DCS of circumstances that affect their eligibility for Subsidized Permanent Guardianship or eligibility for Subsidized Permanent Guardianship in a different amount, including the following:

- a) If they are no longer legally responsible for the child;
- b) If they are no longer providing financial support for the child;
- c) If there is a change of residential address or mailing address of the guardian or the child;

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- d) If the child marries;
 - e) If the custodial status of the child changes (Refer to [Protocol for Adoption Assistance/Subsidized Permanent Guardianship When Children Re-enter State Custody or Placed in Out of Home Care](#))
 - f) If the child dies;
 - g) If the child becomes an emancipated minor;
 - h) If the child enlists in the military;
 - i) If the guardians are made payees of SSA or VA benefits on behalf of the child as well as any changes in benefits;
 - j) If there is a change in the child's treatment needs that would warrant an increase or decrease to the Subsidized Permanent Guardianship payment;
 - k) When a child/youth who exited to the Subsidized Permanent Guardianship program prior to October 1, 2010 graduates from high school up to the youth's 19th birthday, whichever occurs first;
 - l) When a Title IV-E child/youth that is age 16 or older upon entering the Subsidized Permanent Guardianship Agreement on or after October 1, 2010 graduates, the high school or equivalent secondary educational program ends, or the child/youth turns age 21, whichever comes first;
 - m) When a Title IV-E child/youth, who is age 16 or older upon entering the Subsidized Permanent Guardianship Agreement on or after October 1, 2010, graduates from an institution which provides post-secondary or vocational education or turns age 21, whichever comes first ;
 - n) When a Title IV-E child/youth, that is age 16 or older upon entering the Subsidized Permanent Guardianship Agreement on or after October 1, 2010, becomes capable of employment or attending school that has previously been identified as incapable by a medical professional; or
 - o) When a State-Funded child/youth, that is age 16 or older upon entering the Subsidized Permanent Guardianship Agreement on or after October 1, 2010, graduates from high school up to the youth's 19th birthday, whichever occurs first.
- 4. Documentation:** The Permanency Specialist will ensure that the identified guardian completes **Part 2** of the form **CS-0719, Intent to Obtain Permanent Guardianship Placement Agreement and Application for Subsidized Guardianship**.

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SECTION 4: DETERMINING THE DAILY RATE AMOUNT

- What:** Determine the amount of daily rate
- Who:** Permanency Specialist, Team Leader, Team Coordinator, or Subsidy Staff
- When:** Prior to the completion of the application for Subsidized Guardianship payments or for an adjustment if a Subsidized Guardianship Agreement is in effect.

1. **Determine the Child's Resources**

Permanency Specialists will assist the family to determine the needs, identify resources to address the needs, and assess amount of daily rate based on the needs of the child.

2. **Negotiate**

Negotiate the daily rate, which must be less than the current DCS Foster Care board rate with resource parents.

a) **Regular Rates:**

- ◆ Check the following link for all current Regular Subsidized Guardianship Rates: <http://www.tn.gov/youth/fostercare/BoardRates.pdf>

b) **Special Circumstance Rates** are designed for children with:

- ◆ Unique needs due to a diagnosed medical or mental health condition that substantially limits one or more of the following major life activities (walking, speaking, breathing, working, learning performance of manual tasks, vision and self-care); and
- ◆ Who requires a level of supervision exceeding that of his/her peers; and
- ◆ Who requires extra care due to physical, emotional, or mental disability.

Documentation used to support a Special Circumstances rate, must indicate that the child meets all three (3) Special Circumstances requirements as listed above for Special Circumstances rates approved on or after 7/1/2012. Children who do not meet all three criteria as of 7/1/2012 will not qualify for approval of the Special Circumstances rate.

Special Circumstance rates that were approved prior to 7/1/2012 will be reviewed for approval based on the criteria effective at the time the rate was initially approved. The only exception is when there is a request for a rate increase to the Special Circumstances rate. The rate criteria effective at the time of the request should be used in determining approval or denial of the increase.

Permanency Specialists must complete *Section A* of the form **CS-0674, Special or Extraordinary Board Rates Request**, and submit it to the Central Office Subsidy Unit Supervisor.

Permanency Specialist or designated staff will determine the child's needs based on diagnosis, prognosis, and other documentation from licensed medical/mental health providers who have knowledge of child's current circumstances. The Permanency Specialist/FSW will provide the licensed health care provider with form **CS-0934, Special or Extraordinary Rate Justification Form**, to be completed for a child who is being considered for a special or extraordinary rate. The Permanency Specialist will complete form **CS-0674, Special or Extraordinary Rate Request**, and submit, to the Central Office Subsidy Unit

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Supervisor, along with the Special or Extraordinary Rate Justification form, and any other documentation, for review and signature.

The Central Office Subsidy Unit Supervisor will review information and documentation to determine if the documentation justifies the requested rate. If the documentation supports the requested rate, the request will be approved. If it does not justify the rate, Central Office Subsidy Unit Supervisor will consult with the Permanency Specialist to determine if additional documentation should be obtained to support the initial requested rate; or if further negotiations are needed with the perspective guardian(s).

NOTE: A child who received a Special Circumstances or Extraordinary Foster Care board rate would not automatically receive an Special Circumstances or Extraordinary Subsidized Permanent Guardianship maintenance payment. The above procedure must be followed. A Special Circumstances or Extraordinary SPG rate must be in place 90 days prior to signing Subsidized Permanent Guardianship Agreement for children placed in a DCS resource home. If this requirement presents a barrier or delays permanency for any child, a waiver can be obtained from the Director of Foster Care, Adoptions or his or her designee.

c) Extraordinary Circumstance Rates

- ◆ Extraordinary Subsidized Permanent Guardianship rates are reserved for children that have already met all three of the criteria to qualify for special circumstance Subsidized Permanent Guardianship rate, but have additional needs that are so unique and extensive that they cannot be met at the regular or special circumstance rate.
- ◆ Permanency Specialist or designated staff will determine the child's needs based on diagnosis, prognosis, and other documentation from a licensed medical/mental health providers who have knowledge of child's current circumstances. The Permanency Specialist/FSW will provide the licensed health care provider form **CS-0934, Special or Extraordinary Rate Justification Form**, to be completed for a child who is being considered for a special or extraordinary rate. The Permanency Specialist will complete form **CS-0674, Special or Extraordinary Rate Request**, and submit, to the Central Office Subsidy Unit Supervisor, along with the Special or Extraordinary Rate Justification form, and any other documentation, for review and signature.
- ◆ The Central Office Subsidy Unit Supervisor will review information and documentation to determine if the documentation justifies the requested rate. If the documentation supports the requested rate, the request will be approved. If it does not justify the rate, Central Office Subsidy Unit Supervisor will consult with the Permanency Specialist to determine if additional documentation should be obtained to support the initial requested rate; or if further negotiations are needed with the perspective guardian(s) in negotiating a different rate.
- ◆ The Permanency Specialist will advise the guardian(s) of the decision.
- ◆ When evaluating the Subsidized Permanent Guardianship rate during the subsidy renewal or periodic subsidy review period, the Subsidy Staff and Central Office Subsidy Unit Supervisor approver should consider the special or extraordinary rate criterion which was in effect at the time the special or extraordinary rate was initially

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approved. This evaluation method should only apply in instances where the special or extraordinary rate is being considered for continued approval of the subsidy amount at the same rate.

- ◆ When considering approval for an increase in the subsidy amount, the current rate structure or the rate structure in effect at the time of the request should be used as the basis for which the subsidy rate is approved or denied.
- ◆ If during the evaluation period, the Subsidy Specialist determines that child no longer meets the criteria for the current approved special or extraordinary rate, the Subsidy Specialist should utilize the criteria established in the Subsidized Permanent Guardianship policy that is effective at the time the Subsidized Permanent Guardianship rate is being reviewed for approval. If documentation is not submitted to support the continuation of the approved rate and the approved rate is less than the current regular Subsidized Permanent Guardianship rate for the child's age group, the designation of the rate type should be changed, but the Subsidized Permanent Guardianship should remain in effect at the same amount.
- ◆ At each renewal or periodic review period, the Subsidy Specialist is responsible for gathering the necessary documents needed to support the approval of the subsidy rate to include **form CS-0674, Special or Extraordinary Rate Request** and forwarding them to the Central Office Subsidy Unit Supervisor for review and approval.
- ◆ All requests for rate increases should be initiated by the designated Subsidy Specialist at the request of the guardian. As the first reviewer, it is the Subsidy Specialist's responsibility to evaluate the documentation and determine if the information submitted is sufficient to support the approval of an increase to the subsidy rate.

3. Approval

If the Subsidy Specialist determines the information is sufficient to support the requested rate increase, he/she is responsible for completing form **CS-0674, Special or Extraordinary Rate Request** and forwarding it to the Central Office Subsidy Unit Supervisor along with the supporting documentation.

If Central Office Approver determines that the documentation is sufficient and the rate increase is warranted, he/she will approve form **CS-0674, Special or Extraordinary Rate Request** and notify the Subsidy Specialist of the approval.

Upon being notified of the approval, the Subsidy Specialist is responsible for completing a revision to the Subsidized Permanent Guardianship Agreement and revising the subsidy rate. The effective date for the revised (new) rate should be the first day of the following month in which the Special or Extraordinary Rate Request was approved, but can be made effective on a different date, under certain circumstances, on a case by case basis, with the approval of the Director of Foster Care and Adoption.

After receiving the signed and dated revised agreement back from the guardian, the Subsidy Specialist is responsible for creating the subsidy (modification) review in TFACTS and for forwarding it, along with the supporting documents, to the Central Office Subsidy Unit Supervisor for review and approval.

4. Denial

If during the documentation review the Subsidy Specialist determines that the request for the rate increase should be denied, the Subsidy Specialist should prepare a written explanation as to the reason for the denial to include form **CS-0686, Notice of Denial, Termination, or Change in Subsidized Permanent Guardianship** and form **CS-0403, Appeal for Fair Hearing** by State Department. Once these documents are completed, a copy will be provided to the guardian.

NOTE: A child who received a Special Circumstance or Extraordinary Foster Care board rate would not automatically receive a Special Circumstance or Extraordinary Subsidized Permanent Guardianship maintenance payment. The above procedure must be followed. A Special Circumstance or Extraordinary SPG rates must be in place 90 days prior to signing Subsidized Permanent Guardianship Agreement for children placed in a DCS resource home. If this requirement presents a barrier or delays permanency for any child, a waiver can be obtained from the Director of Foster Care, Adoptions or his or her designee.

All reported diagnoses must be verified by an accompanied psychological/psychiatric evaluations, assessments, and/or Medical Reports to be submitted to Central Office for consideration for an approval of a Special or Extraordinary Subsidy rate.

Corrections and Oversight – The Department reserves the right to make corrections to the subsidized permanent guardianship agreement due to error or oversight concerning the funding and the Adoption Assistance rate.

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SECTION 5: DETERMINING THE EFFECT OF SOCIAL SECURITY AND VETERANS BENEFITS ON SUBSIDIZED GUARDIANSHIP PAYMENTS

- What:** Determine the effect of Social Security and Veterans Benefits on daily rates
- Who:** Permanency Specialist/ Subsidy Specialist
- When:** When a child is receiving those benefits and will be placed with Subsidized Permanent Guardianship payment

1. Eligibility

- ◆ The child's Permanency Specialist must ensure the Subsidy Specialist receives the award letter containing information about the child's eligibility for Social Security (SSA) and Veteran Benefits.

2. Guardian(s) Responsibility

- ◆ The guardian(s) should apply for the benefits upon obtaining Permanent Guardianship. If the guardian(s) refuse to apply for these benefits, contact the Central Office Subsidy Unit Staff.

Note: Prior to the final guardianship court hearing, the Permanency Specialist or designated Staff must discuss child's eligibility for benefits with the guardians to make them aware that this is a direct link to the birth family. Information required by Social Security to make application for these benefits must be given to the guardian(s) prior to obtaining Permanent Guardianship.

3. Daily Payment

When the guardian becomes the payee for the child's benefits, the daily Subsidized Permanent Guardianship payment is adjusted by the amount of the Social Security and Veteran Benefits for State funded agreements only.

Note: If a child receives SSI benefits, the subsidized guardianship rate will not be affected.

4. Suspending Payment

When the benefits exceed the amount of the monthly Subsidized Permanent Guardianship payment, the monthly Subsidized Permanent Guardianship maintenance payment should be suspended.

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SECTION 6: DETERMINING ELIGIBILITY FOR NON-RECURRING EXPENSES

- What:** Determine eligibility for Non-Recurring Expenses
- Who:** Permanency Specialist
- When:** When a child will be placed with Subsidized Permanent Guardianship payment

1. Determining Eligibility

- a) Any child who meets criteria for Title IV-E or State Funded Subsidized Permanent Guardianship payments is eligible for non-recurring expenses.
- b) DCS payment of expenditures for non-recurring expenses is a one-time expense for which guardians are ultimately responsible and may not exceed \$2000 per child.
- c) The non-recurring expenses may include one or a combination of the following related to finalization of the Subsidized Permanent Guardianship proceeding:
 - ◆ Legal fees to include attorney fees, court costs and guardian ad litem fees;
 - ◆ Travel expenses such as transportation and lodging for guardians related to the placement of a child with an out of county or out of state family. Any exceptions related to the transportation a child during the process of placement must be referred to the Regional Administrator. Travel must be in accordance with state travel regulations;

Note: All Subsidized Permanent Guardianship court orders are to be initiated and submitted to the court for approval by DCS. There is seldom need for the guardian(s) to hire an attorney for Permanent Guardianship hearings, which differs from Adoption Assistance.

2. Procedures for Approval

- a) When attorney fees are part of non-recurring expenses, all non-recurring expenditures must be approved in writing by the Regional Administrator.
- b) The Permanency Specialist will submit documents of cost along with a request for approval to the Team Coordinator, Team Leader, or Regional Designee.
- c) Approvals must be in writing.

Note: Denials will be addressed in writing by the Regional Administrator or Regional Designee.

3. Procedures for Reimbursement

- a) All non-recurring expenses will not be reimbursed until the final Permanent Guardianship hearing is convened, a final Subsidized Permanent Guardianship order has been received, and a bill has been submitted for payment.
- b) If a non-DCS attorney filed the permanent guardianship paperwork, the Permanency Specialist will obtain an original, signed itemized invoice/billing statement from the attorney following the hearing. The amounts on form **CS-0719, Intent to Obtain Permanent Guardianship Placement Agreement (Part 1) and Application for Subsidized Permanent Guardianship (Part 2)** and form **CS-0721, Subsidized Guardianship Agreement**, must be consistent in order for payment to be made. The original signed/itemized bill, supporting documentation and the written approval must be submitted to regional fiscal designee.

Copies of all non-recurring expenses billing documentation must be maintained in the Subsidized Permanent Guardianship case file.

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SECTION 7: ESTABLISHING TENNCARE/MEDICAID FOR A CHILD

What:	Establish TennCare/Medicaid Coverage for a Child
Who:	Permanency Specialist
When:	Prior to final Permanent Guardianship Hearing

1. Circumstances

All children who are eligible for Title IV-E Subsidized Permanent Guardianship are categorically eligible for Title XIX medical assistance/Medicaid (TennCare) .

If the child's Subsidized Permanent Guardianship is certified to be State Funded, the DCS Permanency Specialist will review the TFACTS person record to ascertain if the child has income, expenses, or resources known to DCS to determine if the SPG child will be eligible for continued Title XIX medical assistance/Medicaid (TennCare) benefits.

Financial information obtained from the TFACTS review should be shared with the Guardian as part of the full disclosure process.

The DCS Permanency Specialist/Private provider staff will work with the guardian family to complete the TennCare Medicaid Enrollment for State Funded Subsidized Permanent Guardianship within 3 weeks prior to child's guardianship exit.

The Title XIX medical assistance/Medicaid (TennCare) Enrollment form must be submitted to the regional Child Welfare Benefits Counselor (CWBC) at least five (5) working days prior to the guardianship exit date to allow adequate time for processing.

Within five (5) working days, the regional CWBC will e-mail confirmation of the Title XIX medical assistance/Medicaid (TennCare) .

eligibility decision back to DCS Permanency Specialist.

The Title XIX medical assistance/Medicaid (TennCare) Eligibility determination should be discussed with the guardian family during the SPG full disclosure meeting and documented on the SPG agreement.

Continued eligibility for Title XIX medical assistance/Medicaid (TennCare) will be determined based on information submitted by the family during the renewal period to the Subsidy staff and in conjunction with the Regional Child Welfare Benefits Counselor.

2. Permanency Specialist or Designated Staff Responsibilities

- ◆ When a child in Tennessee's Subsidized Permanent Guardianship remains in the state, provide Child Welfare Benefits Counselors the following information:
 - ◆ The child's birth date;
 - ◆ The child's social security number;
 - ◆ Date of final Permanent Guardianship hearing;
 - ◆ Copy of Part 2 of form **CS-0719, Intent to Obtain Permanent Guardianship Placement Agreement and Application for Subsidized Guardianship**; and
 - ◆ Copy of form **CS-0721, Subsidized Permanent Guardianship Agreement**,
 - ◆ Copy of form **CS-0917, Certification of Eligibility for Subsidized Permanent Guardianship**, if applicable.

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- b) Notify the local/regional Child Welfare Benefit Unit whenever there is a change in circumstances for children who receive Subsidized Permanent Guardianship, which might affect the status of their Title XIX Medical Assistance/Medicaid (TennCare).
- ◆ Termination of the Subsidized Guardianship Agreement;
 - ◆ Change in funding source; or
 - ◆ At renewal of a State funded Agreement.
 - ◆ Follow these procedures when a child who receives subsidized permanent guardianship payments is placed/moves out of state:
 - ◆ Inform the guardian parent(s) of a Title IV-E eligible child's availability of Title XIX Medical Assistance/Medicaid (TennCare) coverage in their state of residence.
 - ◆ Upon a child's placement for guardianship out of state, a referral will be made for Medicaid benefits through Interstate Compact on Adoption and Medical Assistance (ICAMA).
 - ◆ After guardianship has been finalized, an ICAMA Referral will be completed by the Permanency Specialist or Central Office Subsidy staff and forwarded to the child's new state of residence for Medicaid. This will be done for Subsidized Permanent Guardianship children who are Title IV-E and State Funded eligible (**See Section 8, Establishing Medicaid in Another State for Families who Receive Tennessee Subsidized Permanent Guardianship**).

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Section 8: ESTABLISHING MEDICAID IN ANOTHER STATE FOR FAMILIES WHO RECEIVE TENNESSEE SUBSIDIZED PERMANENT GUARDIANSHIP

What: Establish service in another state for families who receive Tennessee Subsidized Permanent Guardianship

When: Upon receipt of a request from the Guardian

Who: Central Office Subsidy Staff

1. Negotiation

Subsidy Payments, non-recurring expenses, payment of medical expenses, etc., will continue as agreed upon by the guardian(s) and DCS.

2. ICAMA (Interstate Compact on Adoption and Medical Assistance) Referral

Send the referral packet with a copy of the initial Subsidized Permanent Guardianship Agreement, supporting documentation, current Renewal Affidavit, along with the cover letter to Central Office Subsidy staff.

The cover letter should include the following information:

- ◆ Child/Children's name, DOB, social security number;
- ◆ Funding source;
- ◆ Child's race;
- ◆ Guardian(s) full name;
- ◆ Current address and telephone number;
Ending date for Title XIX Medical Assistance/Medicaid (TennCare); and
- ◆ The requested begin date for Medicaid in the new state of residence.

If there are problems establishing Medicaid for a child in their new state of residence, Central Office Subsidy staff will work with the parents and the receiving state's child welfare agency to get resolution to the problem.

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SECTION 9: AVAILABILITY OF SUBSIDY BASED ON CHILD'S AGE

- What:** Determining continuing eligibility for a child/youth
- Who:** Permanency Specialist Central Office Subsidy Staff
- When:** Age change that results in Subsidy increase or prior to the child's 18th birthday

Renewal/Renegotiation due to change in age

An increase, due to a child's birthday, is given upon the request of the guardian or at the time of the renewal. Due to the change in the Subsidized Permanent Guardianship rate, the Subsidy staff will have to complete form **CS-0721, *Subsidized Guardianship Agreement***, to reflect the new rate.

Note: Increase the new rate effective to the first day of the month following the parent's request for the increase. Otherwise increases in rates will be completed at renewal. Increases due to a child's birthday are available only for those children who receive regular and special circumstances Subsidized Permanent Guardianship rates.

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SECTION 10: REVISING/RENEGOTIATING SUBSIDIZED PERMANENT GUARDIANSHIP

What: Revise/Renegotiate Subsidize Guardianship Agreements
Who: Central Office Subsidy Staff
When: A change is requested

1. When should a Permanent Guardianship Subsidy be renegotiated?

- a) At guardian(s) request;
Guardian(s) may request a revision/renegotiation in their Subsidized Permanent Guardianship at any time the child's circumstances change.
- b) When child re-enters state custody;
When a child re-enters state custody, the Central Office Subsidy Specialist will renegotiate the amount of the daily Subsidized Permanent Guardianship rate with the guardian(s) (See [Protocol for AA/SPG when Children Re-Enter Care.](#))
- c) When a child returns home from a re-entry custody episode;
- d) At renewal of a State Funded Subsidized Permanent Guardianship Agreement;
- e) When Social Security and Veterans benefits are modified for State Funded Subsidized Permanent Guardianship Agreements when the change results from Social Security and Veterans Benefits. Request a copy of the award letter and file in the Subsidized Permanent Guardianship case record.
- f) If DCS determines a renegotiation is deemed necessary if the treatment needs of the child increases or decreases; or
- g) When DCS determines a correction is needed for errors in the Subsidized Permanent Guardianship Agreement
- h) When the child reaches their 18th birthday.

Evaluate the child's eligibility for either Title IV-E or State Funding based on written documentation submitted by the guardian(s). Continued eligibility for Subsidized Permanent Guardianship, regardless of the funding source, is determined through a Review of Eligibility process within TFACTS based on the Subsidized Permanent Guardianship program requirements. See **Section 13, Review of Eligibility for Youth Turning 18 and Older.**

2. What should DCS consider in their renegotiation with guardian(s)?

- a) The needs of the child and family; and
- b) The supporting documentation to justify the requested Subsidized Permanent Guardianship rate.

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3. Processing a renegotiated or revised agreement

- a) The Permanency Specialist (prior to finalization) or Central Office Subsidy staff will review documentation provided by the guardian(s).
- b) Complete **CS-0674, *Special or Extraordinary Rate Request***, and submit with supporting documentation, along with **CS-0934, *Special or Extraordinary Rate Justification Form***, to Central Office Subsidy Staff for approval.
- c) All revisions must begin the first day of the month and end the last day of the month. A revision only in the Subsidized Permanent Guardianship agreement does not change the renewal date.
- d) All required Subsidized Permanent Guardianship forms must be fully completed when doing the renewal. **(See Section 11, *Renewing State Funded Subsidized Permanent Guardianship*).**
- e) Complete form **CS-0721, *Subsidized Permanent Guardianship Agreement***, as appropriate.
- f) Complete a new form **CS-0721, *Subsidized Permanent Guardianship Agreement***, to reflect a change in the amount of the daily rate amount or change in the funding source. **(See Section 4, *Determining the Daily Rate*).**

4. Obtaining approval

Upon completion of the revision, forward the following necessary documents to the Central Office Subsidy Staff for approval:

- ◆ Subsidized Permanent Guardianship Agreement;
- ◆ Verification of school attendance if age 18;
- ◆ Benefit award letter; and/or
- ◆ Report from the treatment facility;
- ◆ **CS-0674, *Special or Extraordinary Rate Request*** ;
- ◆ **CS-0934, *Special or Extraordinary Rate Justification***, if applicable
- ◆ Medical/psychological documentation
- ◆ **CS-0720, *Notice of Denial, Termination, or Change in Subsidized Permanent Guardianship***
- ◆ **CS-0403, *Appeal for Fair Hearing***

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SECTION 11: RENEWING STATE FUNDED SUBSIDIZED PERMANENT GUARDIANSHIP

- What:** Ensure the correct process for the guardians to renew State Funded Subsidized Permanent Guardianship
- Who:** Central Office Subsidy Staff
- When:** Begin 90 days prior to the renewal date

State-funded Subsidized Permanent Guardianship Agreements will be reviewed periodically to determine continued eligibility.

1. Process

- a) Special Circumstances and Extraordinary Subsidized Permanent Guardianship will be reviewed annually. The renewal date will be the first day of the month, in which the guardianship was made final, the following year. **Example:** The Subsidized Permanent Guardianship was finalized at a Special or Extraordinary Subsidized Permanent Guardianship rate on November 13, 2011. The effective date will be November 13, 2011. The renewal date will be November 1, 2012.
- b) Regular Subsidized Permanent Guardianship rates will be reviewed periodically.

2. First Notice

At least 90 days prior to the renewal date, the Subsidy Specialist must send a letter to the guardian (s), requesting that they review, sign, and have document notarized before returning the form to the Subsidy Specialist. The Subsidy Specialist will provide the guardian(s) with the appropriate documents to complete the renewal process.

3. Second Notice

- a) If the renewal affidavit with supporting documentation is not received send a second letter by certified mail at least 60 days prior to the renewal date.
- b) The guardian(s) must return a completed form **CS-0459, Subsidized Permanent Subsidy Renewal Affidavit**, within the timeframes outlined in the Subsidized Permanent Guardianship Agreement to the Central Office Subsidy Staff.
- c) Unless the guardian(s) can show good cause, failure by the guardians to return the renewal affidavit may result in the termination of the Subsidized Permanent Guardianship payments and the case will not be re-opened. Decisions to allow late submissions of documentation will be made on a case-by-case basis and approved at the discretion of the Division of Foster Care and Adoptions.

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4. Verifying Assistance

Written verification must be obtained of the following:

- ◆ Medical/psychological/psychiatric needs when these services are being utilized;
Note: For children receiving Special or Extraordinary rates, guardian(s) are required to submit verification from their child's licensed treatment services provider.
- ◆ Verification if the child continues to reside in the family home;
- ◆ For children not residing in the family home, the Subsidy Specialist should ask the guardian(s) to submit a letter to DCS providing the child's current address, explaining if they (the guardians) are still legally responsible; and how they are providing financial support to the child;
- ◆ If the guardian(s) continue to be legally responsible for the child;
- ◆ If the guardian(s) continue to provide support to the child; and
- ◆ If the child is 18 and has state-funded subsidized permanent guardianship, verify in writing that the child is in school by using Form, **CS-0809, Verification of Full Time School Attendance**. Other forms of verification may be acceptable.

Note: State-Funded children who were 16 years of age or older when entering the Subsidized Permanent Guardianship Agreement effective on or after October 1, 2010 will be provided Subsidized Permanent Guardianship assistance payments until the child graduates from high school or turns 19, whichever comes first.

5. Renewal Process

- a) The renewal/renegotiation of State Funded Subsidized Permanent Guardianship contracts are required periodically in order for payments, at any rate, to continue.
- b) Upon receipt of the renewal information from the guardian(s), the Subsidy Specialist will review documents submitted by the guardian(s) for accuracy, and to make sure that supporting documentation continues to justify rates that are above the regular Subsidized Permanent Guardianship rate.
- c) If the child receives a Special Circumstance or Extraordinary Subsidized Permanent Guardianship rate, and the documentation does not justify the rate, the guardian(s) will be notified to discuss what additional information might be needed to continue the rate, or if the submitted documentation is not enough to justify the rate and the rate has to be renegotiated to another rate. If the rate has to be renegotiated and/or revised, follow steps in **Section 10, Revising/Renegotiating Subsidized Permanent Guardianship**.
- d) In cases where documentation or the Subsidy Renewal Affidavit is received after the due date, the effective date will be the date the documentation is reviewed and determined sufficient to continue the Subsidized Permanent Guardianship payment. If the documentation is determined insufficient, the Subsidy Specialist will contact the family to renegotiate the rate and revise the agreement to reflect the appropriate rate.

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- e) If there is no revising/renegotiating of the rate, proceed with the distributing of the forms to the appropriate individuals, as listed below.

6. Forms Distribution

Ensure that the form **CS, 0459 Subsidized Permanent Subsidy Renewal Affidavit**, is completed and distribute copies as follows:

- a) Send the copies of the Affidavit to the guardian(s), if requested;
- b) Copy to Child Welfare Benefits Counselor;
- c) Maintain local office copy of Subsidy Renewal Affidavit; and
- d) Upload into **TFACTS**;

7. Packet Contents

The Permanent Guardianship renewal packet must contain the following:

- a) Form **CS-0459, Subsidized Permanent Subsidy Renewal Affidavit**;
- b) Statement verifying child's school attendance, if required (form **CS-0809, Verification of Full Time School Attendance**); and
- c) Form **CS-0934, Special or Extraordinary Rate Justification**, verifying child's physical or mental handicapping condition, if required. (When a child is currently receiving a medical/psychological/psychiatric service, a professional statement must be provided at the time of the renewal documenting the ongoing need and treatment)

Note: File all of the above with the most recent documentation on top, and uploaded into **TFACTS**. Subsidized Permanent Guardianship files must be in accordance with DCS Policy [15.16 Subsidized Permanent Guardianship Case File Contents](#) and [Protocol for Subsidized Permanent Guardianship Case File Contents](#).

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SECTION 12: DENYING SUBSIDIZED PERMANENT GUARDIANSHIP

What:	Deny Subsidized Permanent Guardianship payments
Who:	Permanency Specialist or Central Office Subsidy Staff
When:	Any eligibility requirement is not met

1. Circumstances

DCS will deny Subsidized Permanent Guardianship at the time of application when one of the following conditions exists:

- a) The child does not meet the eligibility criteria as outlined in **Section 1, Criteria for Subsidized Permanent Guardianship Eligibility**;
- b) The guardian(s) are not a fully approved resource home (See DCS Policies [16.4 Resource Home Approval](#) and [16.8 Responsibilities of Approved Resource Homes](#))
- c) The final Permanent Guardianship hearing has occurred before the guardian applies; or
- d) The child was not in DCS custody/guardianship immediately prior to the final Permanent Guardianship hearing.

2. Completing Form

Complete Part 2 of Form **CS-0719, Intent to Obtain Permanent Guardianship Placement Agreement and Application for Subsidized Guardianship**.

3. Notification

- a) Notify the guardian in writing within five (5) working days of the decision of the reason for denial and the right to appeal. (See **Section 15, Processing Appeals**).
- b) A copy of the denial notification is to be filed in the Subsidized Permanent Guardianship case record and in TFACTS.

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Section 13: REVIEW OF ELIGIBILITY FOR YOUTH TURNING 18, 19, or 20

- What:** Determines child's continued eligibility for Subsidized Permanent Guardianship
- When:** Begin process 90 days prior to child's 18th, 19th, and 20th birthday
- Who:** Central Office Subsidy Staff

An eligibility determination must be completed, in TFACTS, for all youth turning 18, 19, or 20 years old to determine if the youth will remain eligible for the SPG payment past the age of 18. Continued eligibility for youth 18, 19, or 20 regardless of the funding source is determined through a Review of Eligibility process within TFACTS based on the SPG program requirements.

For youth 18, 19, and 20 years old, eligibility for State funded SPG agreements (regardless of the effective date) and Title IV-E SPG agreements (entered into on or after October 1, 2010 and were 16 or older at the time of exit to guardianship) is based on continual full-time school enrollment and attendance. Breaks in full-time attendance and enrollment will disqualify the youth for continued eligibility. The only exception is in instances where the educational institution considers the break to be normal or customary for the school year. Other exceptions can be made on a case by case basis at the discretion of the Director of Foster Care and Adoption so long as the exception does not violate state and federal law concerning SPG program eligibility requirements.

Subsidized Permanent Guardianship Program Requirements

1. **Title IV-E Subsidized Permanent Guardianship:** A child/youth determined eligible for Title IV-E SPG can continue to have their SPG funding through Title IV-E until the age of 21 if one of the following is true:
 - a) The youth is under the age of 21 and the SPG agreement was made effective prior to October 1, 2010, and has a disability/handicapping condition, documented by a licensed provider, which requires treatment, to warrant the continuation of the Title IV-E subsidy payment; in situations where the youth is considered to have a permanent mental health/medical condition as documented by a licensed professional, but is not receiving ongoing treatment, it is permissible for the state agency (DCS) to continue the subsidy payment beyond the youth's 18th birthday so long as the permanent condition is documented in the youth's SPG file.
 - b) The youth is under the age of 21, the SPG agreement was made effective between October 1, 2010 and June 30, 2012, the youth was 16 or older at the time of the SPG exit, and one of the following is true:
 - i. The youth is a full time high school student or the youth is in an approved secondary program leading to an equivalent credential; or
 - ii. The youth is enrolled in an institution which provides post-secondary or vocational education; or
 - iii. The youth is determined incapable of employment/attending school due to a documented medical condition; or
 - iv. The youth has a disability/handicapping condition, documented by a licensed provider, which requires treatment, to warrant the continuation of the Title IV-E subsidy payment; in situations where the youth is considered to have a permanent mental health/medical condition as documented by a licensed professional, but is not receiving ongoing treatment, it is permissible for the state agency (DCS) to continue

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the subsidy payment beyond the youth's 18th birthday so long as the permanent condition is documented in the youth's SPG file.

- c) The youth is under the age of 21, the SPG agreement was made effective between October 1, 2010 and June 30, 2012, the youth was under the age of 16 at the time of the SPG exit and has a disability/handicapping condition, documented by a licensed provider, which requires treatment, to warrant the continuation of the Title IV-E subsidy payment.
- d) The youth is under the age of 21, the SPG agreement was made effective on or after July 1, 2012, the youth was 16 or older at the time of the SPG exit, and one of the following is true:
 - i. The youth is a full time high school student or the youth is in an approved secondary program leading to an equivalent credential; or
 - ii. The youth is enrolled in an institution which provides post-secondary or vocational education; or
 - iii. The youth is determined incapable of employment/attending school due to a documented medical condition; or
 - iv. The youth has a disability/handicapping condition documented to be moderate or severe by a licensed provider, which requires treatment, to warrant the continuation of the Title IV-E subsidy payment; or
 - v. The youth has a disability/handicapping condition which substantially limits the youth in one or more major life functions as documented by a licensed provider to warrant the continuation of the Title IV-E subsidy payment.
- e) The youth is under the age of 21, the SPG agreement was made effective on or after July 1, 2012, the youth was under the age of 16 at the time of the SPG exit, and one of the following is true:
 - i. The youth has a disability/handicapping condition documented to be moderate or severe by a licensed provider, which requires treatment, to warrant the continuation of the Title IV-E subsidy payment; or
 - ii. The youth has a disability/handicapping condition which substantially limits the youth in one or more major life functions as documented by a licensed provider to warrant the continuation of the Title IV-E subsidy payment.

NOTE: Documentation from a licensed provider is required to determine continued eligibility. The only exception is for youth receiving ABA services. In this situation, the provider must be board certified (DCS Policy [15.15, Subsidized Permanent Guardianship](#), Section I.3 and J.2).

- 2. State funded Subsidized Permanent Guardianship:** A child/youth determined eligible for State funded SPG can continue to have their SPG agreement funded through State funds until the age of 19 if one of the following is true:
- a) The youth is under the age of 19, the SPG agreement was made effective prior to October 1, 2010, and documentation has been obtained to verify that the youth is enrolled in high school full-time to warrant the continuation of the State funded payment.
 - b) The youth is under the age of 19, the SPG agreement was made effective on or after October 1, 2010, the youth was 16 or older at the time of the SPG exit, and documentation has been obtained to verify that the youth is enrolled in high school full-time to warrant the continuation of the State funded payment.

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NOTE: SPG agreements made effective on or after October 1, 2010 and the youth was under the age of 16 at the time of the SPG exit, the SPG agreement will terminate at the youth's 18th birthday.

Review of Eligibility Process:

All subsidies must be evaluated to determine continued eligibility for Title IV-E or State Funded Subsidized Permanent Guardianship prior to age 18 and subsequently each year thereafter prior to each impending birthday until the youth reaches the age of 21. During the evaluation period, if it is determined that the youth does not meet any of the conditions to continue IV-E, but does meet one of the criterion for State Funded SPG, the agency (DCS) will allow the SPG agreement to remain in effect, but change the funding from IV-E to State, effective the date of the youth's birthday in which the child became ineligible for Title IV-E.

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SECTION 14: TERMINATING SUBSIDIZED PERMANENT GUARDIANSHIP

What:	Terminate Subsidized Permanent Guardianship payments when circumstances occur that cause a change in eligibility
Who:	Central Office Subsidy Staff
When:	The change in circumstances causes termination

1. Evaluation

DCS must terminate Subsidized Permanent Guardianship payments any time after approval when one of the following exists:

- a) Upon the permanent guardian(s) request;
- b) DCS determines that the permanent guardian(s)' legal responsibility to the child ended;
- c) DCS determines that the child is no longer receiving financial support from the permanent guardian(s);
- d) Upon the conclusion of the terms of the Subsidized Permanent Guardianship Agreement;
- e) DCS determines that the family fails to complete the renewal re-negotiation process within the time frames outlined in the Subsidized Permanent Guardianship Agreement (for state funded agreements only);
- f) If the child marries;
- g) If the child enlists in the military;
- h) If the child dies;

Note: The effective date for termination of the guardianship assistance agreement will be the first day of the following month in which the child died.

- i) If the guardian becomes incapacitated or dies;
- j) Title IV-E funded children, who were 16 years of age or older upon entering the Subsidized Permanent Guardianship Agreement on or after October 1, 2010, guardianship assistance payments will be provided until the child completes a high school education or an approved secondary educational program or turns 21, whichever comes first.
- k) Title IV-E funded children, who were 16 years of age or older upon entering the Subsidized Permanent Guardianship Agreement on or after October 1, 2010, guardianship assistance payments will be provided until the child graduates from an institution which provides post-secondary or vocational education or turns age 21, whichever comes first.
- l) Title IV-E funded children, who were 16 years of age or older upon entering the Subsidized Permanent Guardianship Agreement on or after October 1, 2010, guardianship assistance payments will no longer be provided if it is determined that a child's health improves and no longer prevents the child from participating in employment or attending school or turns age 21, whichever comes first;
- m) State-Funded children who were 16 years of age or older upon entering the Subsidized Permanent Guardianship Agreement on or after October 1, 2010, will be provided guardianship assistance payments until the child graduates from high school or turns 19, whichever comes first.

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- n) All children who entered into a Subsidized Permanent Guardianship Agreement prior to October 1, 2010 will be provided guardianship assistance payments until the child graduates from high school or turns 19, whichever comes first.
- o) Title IV-E children who entered into a Subsidized Permanent Guardianship Agreement, on or after December 1, 2006, guardianship assistance payments will be provided until the child is age 21 if the child has a documented mental or physical disability, which warrants continuation as determined through the Review of Eligibility in TFACTS.
- p) State funded children, who were under the age of 16 upon entering the Subsidized Permanent Guardianship Agreement on or after October 1, 2010, are no longer eligible for the Subsidized Permanent Guardianship payment once they reach the age of 18.
- q) State funded children, who entered into a Subsidized Permanent Guardianship Agreement between December 1, 2006, and September 30, 2010, guardianship assistance payments will be provided beyond the age of 18 up until the child graduates from high school or turns 19 years old, whichever occurs first.

2. Completing Form

Complete form **CS-0721, *Subsidized Permanent Guardianship Agreement***, and make sure to include reason for termination.

3. Effective Date

Subsidized Permanent Guardianship may be terminated at any time during the month when the child ceases to be eligible.

4. Distribution

Submit all copies to the Central Office Subsidy Staff for approval.

One copy of the agreement is to be maintained in the Subsidized Permanent Guardianship case record, one copy is uploaded into TFACTS, and one copy is sent to the Child Welfare Benefits Worker. (See: DCS Policy [15.16 Subsidized Permanent Guardianship Case File Contents](#) and [Protocol for Subsidized Permanent Guardianship Case File Contents](#)).

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SECTION 15: SUCCESSOR GUARDIANSHIP APPROVAL PROCESS

- What:** Transferring SPG subsidy payment to a Successor Guardianship
- When:** When a Guardian who has a Subsidized Permanent Guardianship Agreement with the Department of Children's Services becomes incapacitated or dies
- Who:** Central Office Subsidy Staff, RPS, DRHET, and Foster Care and Adoptions Unit

In the event the guardian becomes incapacitated or dies, the Subsidized Permanent Guardianship subsidy payment can be transferred to the Successor Guardian identified in the **CS-0721, Subsidized Permanent Guardianship Agreement**, without a new determination of eligibility.

1. The Successor Guardian will need to provide legal evidence to the Department that the child is now in the caretaker's guardianship.
2. After the Department has been made aware of the Successor Guardian's legal responsibility of the child, the Department will complete background checks and a home study on the Successor Guardian in accordance with policy 16.20.

The complete background check includes the following:

- a) A criminal history check to include local criminal records check from local law enforcement records or county court records for all residences of applicant within the immediate six (6) months preceding application for each applicant. These checks will also be conducted for any other adult member of the household taking into account current, maiden, and any other previous legal names,
- b) A TBI/FBI fingerprint check,
- c) A CPS Records Check in TFACTS;
- d) A National Sex Abuse Registry Clearance; and
- e) A Tennessee Department of Health Vulnerable Persons Abuse Registry Clearance.

All findings identified as a result of these checks will be documented on form **CS-0687, Background Check History and IV-E Eligibility Checklist**, with results attached.

3. If the results of the background checks and home study are determined to be satisfactory and do not present safety concerns for the child, the Successor Guardian will be entitled to all pending and future subsidy payments for eligible children in their care, after completing a new **CS-0721, Subsidized Permanent Guardianship Agreement**. The new Successor Guardian will be responsible for any future renewals, reports of changes in circumstances, and requests for revisions to the SPG Agreement as outlined in this policy.
4. In the instances where a Successor Guardian is not identified in the Initial Subsidized Permanent Guardianship Agreement, the caretaker can add a Successor in an amended revision or renewal agreement.

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SECTION 16: PROCESSING APPEALS

- What:** Process appeals of decisions to revise, terminate, or deny Subsidized Permanent Guardianship agreements
- Who:** Central Office Subsidy Staff
- When:** An appeal is requested by the guardian

1. Circumstances

Whenever DCS revises, terminates, or denies Subsidized Permanent Guardianship agreements, the guardian(s) may appeal the decision in accordance with the rules and procedures of the State's fair hearing and appeal process. If they appeal within 10 days of the written notice from DCS, assistance may continue pending the outcome of the appeal at the discretion of the state agency (DCS).

Note: If guardian(s) request termination or termination is due to the youth reaching the age of 21, it is not necessary to give notice of the appeal. See: DCS Policy [15.15 Subsidized Permanent Guardianship](#).

2. Contact/Written Notice

- a) Contact the guardian(s) and discuss revision/termination/denial giving reasons for the decision.
- b) Also provide written notice, listing all reasons for the decision utilizing form **CS-0720, Notice of Denial, Termination, or Change in Subsidized Permanent Guardianship**, when an agreement is revised, terminated, or denied.
- c) Form **CS-0403, Appeal for Fair Hearing**, must be given to the guardian(s) at the same time the form **CS-0720, Notice of Denial, Termination or Change in Subsidized Permanent Guardianship**, is given.
- d) The family must be informed about the timeframe in which they have to file an appeal. They must also be provided with the fax number and mailing address to send form **CS-0403, Appeal for Fair Hearing**.
- e) Explain the guardian's right to appeal the decision.

3. Completing Form

Upon the family's decision to appeal, have the guardian complete Form **CS-0403, Appeal for Fair Hearing**.

4. Appeal Summary

Prepare an Appeals Summary within the time frame requested by the Administrative Procedures Division and distribute copies to the following:

- a) Appeals Hearing Officer (original)Administrative Review Judge;
- b) Guardian(s) or their representative;
- c) Central Office Subsidy Supervisor;

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- d) Commissioner's Office (only if discrimination is claimed);
- e) Subsidized Guardianship case record; and
- f) Regional Legal Counsel.

5. Appeal Hearing

- a) The Appeals Hearing Officer/Administrative Review Judge schedules the hearing.
- b) The guardian may have an attorney present. The Subsidy Specialist will contact the regional counsel to request their participation.
- c) The Central Office Subsidy Staff will attend the hearing and testify giving policy/procedure, which were in effect at the time of guardianship placement to support the decision to terminate, revise, or deny subsidized permanent guardianship payments.

6. Decision of Appeal Hearing Officer

The Appeals Hearing Officer/Administrative Review Judge will issue an order outlining the outcome of the appeal. The guardian(s) or the DCS representative may request a reconsideration of the decision by the Appeals Hearing Officer. The guardian(s) may, as a final recourse, file such in Chancery Court.

DCS will comply with the final order in this case.

Subsidized Permanent Guardianship Forms

[CS-0403, Appeal for Fair Hearing](#)

[CS-0459, Subsidized Permanent Subsidy Renewal Affidavit](#)

[CS-0917, Certification of Eligibility for Subsidized Permanent Guardianship](#)

[CS-0721, Subsidized Guardianship Agreement](#)

[CS-0674, Special or Extraordinary Rate Request](#)

[CS-0720, Notice of Denial, Termination, or Change in Subsidized Permanent Guardianship](#)

[CS-0719, Intent to Obtain Permanent Guardianship Placement Agreement and Application](#)

[CS-0809, Verification of Full Time School Attendance](#)

[CS-0934, Special or Extraordinary Rate Justification Form](#)

[CS-0949, Review of Eligibility for Subsidized Permanent Guardianship for Youth Turning 18](#)