



**Policy Attachment: 15.11, 16.39**

<b>Subject:</b>	<b>Protocol for Adoption Assistance/Subsidized Permanent Guardianship When Children Re-enter State Custody or Placed in Out of Home Care</b>
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**Additional Information:**

**Overview**

When a child who has been adopted or exited foster care to Subsidized Permanent Guardianship is placed into state custody, a review and/or re-negotiation should be made to determine the status of the subsidy payment. The goal will be to ensure that continued subsidy payments are appropriate and the rates are based on current facts and the change in circumstances.

**Notification of Adoptive/Permanent Guardianship Child Entering State Custody**

1. In all cases, when a child that has been adopted or exited to Subsidized Permanent Guardianship, enters state custody, the DCS staff (CPS, FSW, Court Liaison, or Intake) will complete form [CS-0727, Initial Intake Placement Referral and Checklist](#), and mark the appropriate box "Receiving Adoption Assistance/SPG?"
2. DCS staff will forward copy of form [CS-0727, Initial Intake Placement Referral and Checklist](#) (with other required documentation; i.e. court order reflecting reasonable efforts, etc.) to CWBC to determine eligibility for Title IV-E foster care and to verify if the child is receiving Adoption Assistance/SPG.
3. If this is an Adoption Assistance/SPG case, CWBC will notify the Subsidy Specialist, the Regional Fiscal Director, and the Subsidy Unit Supervisors.
4. DCS staff entering the child into **TFACTS** will complete a Person Search to locate and link the appropriate Adoption Assistance/SPG case to the Foster Care custodial case.
5. No payment may be made to parents with respect to any child if DCS determines that the parents are no longer legally responsible or financially supporting the child. In instances where the department has determined that the parent is no longer legally responsible for or financially supporting the child, the adoption assistance/SPG agreement must be considered for termination.
6. The adoptive family is responsible for informing the Subsidy Specialist when their child re-enters state custody as outlined in the Notification of Change section of the Adoption Assistance or Subsidized Permanent Guardianship Agreement.
7. When a child receiving adoption assistance is placed in foster care, the adoption assistance payments should be renegotiated within ten (10 calendar) days of the Subsidy Specialist being notified that the child has entered custody or is placed out of the home.

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8. The effective date of the renegotiated rate should be the first day following the month that the renegotiated rate is approved. The effective date can pre-date the approval date of the renegotiation, if it is determined that the child was placed in foster care and the each of the following statements are true:
  - a) There is a valid adoption assistance agreement, subsidized permanent guardianship agreement, or renewal affidavit in effect;
  - b) The child was placed in foster care and the adoptive family failed to notify the Subsidy Specialist that the child was no longer residing in the family home or of changes that would effect their eligibility for the Adoption Assistance or Subsidized Permanent Guardianship Program or the subsidy rate as outlined in the notification of change and termination sections of their Adoption Assistance Agreement or Subsidized Permanent Guardianship Agreement.

**Notification of Adoptive/Subsidized Permanent Guardianship Child When Placed in Out of Home Care**

1. In instances where the child is not placed in state custody, but placed in another form of out of home care, to include placement in a psychiatric/residential treatment facility, the adoptive parent/guardian must inform DCS that the child is no longer in the home. The child can remain eligible for the Adoption/SPG subsidy as long as the adoptive parents/guardian(s) can demonstrate that they remain legally responsible and are contributing financially to the child's care.
2. No payment may be made to parents with respect to any child if DCS determines that the parents are no longer legally responsible or financially supporting the child. In instances where the department has determined that the parent is no longer legally responsible for or financially supporting the child, the Adoption Assistance/SPG agreement must be considered for termination.

**Re-negotiation of Adoption Assistance when the child Re-enters State Custody and receives State Funded Adoption Assistance**

1. The adoptive family is responsible for informing the Subsidy Specialist when their child re-enters state custody as outlined in the Notification of Change section of the Adoption Assistance Agreement.
2. When a child receiving adoption assistance is placed in foster care, the adoption assistance payments should be renegotiated within ten (10 calendar) days of the Subsidy Specialist being notified that the child has entered custody.
3. The effective date of the renegotiated rate should be the first day following the month that the renegotiated rate is approved. The effective date can pre-date the approval date of the renegotiation if it is determined that the child was placed in foster care and the each of the following statements are true:
  - ◆ There is a valid Adoption Assistance Agreement or renewal affidavit in effect;
  - ◆ The child was placed in foster care or out of the home and the adoptive family failed to notify the Subsidy Specialist that the child was no longer residing in the family home or of changes that would effect their eligibility for the adoption assistance program or the subsidy rate as

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outlined in the notification of change and termination sections of their adoption assistance agreement; and

4. The adoptive family must participate in the renegotiation process to demonstrate their plans to continue financially supporting their child while the child remains in custody or out of the home. If the adoptive family refuses to participate in the renegotiation process, or cannot demonstrate how they plan to contribute financially to the care of the child within ten (10) calendar days from the date that the Subsidy Specialist was notified that the child re-entered state custody, the Adoption Assistance payment will be considered for termination. The revised forms [CS-0513, Adoption Assistance Agreement](#), [CS-0686, Notice of Denial, Termination or Change in Adoption Assistance](#), and [CS-0403 Appeal for a Fair Hearing](#), will be sent to the adoptive family/guardian(s) via certified mail.
5. Under no circumstances shall Extraordinary or Special circumstance [State Funded Adoption Assistance](#) rates continue while the child is in state custody. With approval, from the Director of Foster Care and Adoption or his/her designee, a special or extraordinary subsidy rate can remain in effect if there is supporting documentation that demonstrates renegotiating the subsidy rate presents a barrier to the child's treatment, reunification or re-integration of the child back into the family home.
6. If the family agrees to a re-negotiation, the Subsidy Specialist will assist the family in developing a plan to document their continuing support for their child. This plan should address the qualified needs of the child and the needs of the family. For children placed in foster care, form [CS-0936, Adoption Assistance-Subsidized Permanent Guardianship Renegotiations](#), should be utilized to complete this process, when appropriate.
7. If an agreement cannot be reached between DCS and the adoptive family during the renegotiation process, but DCS determines a change or termination of the subsidy is warranted, according to departmental requirements, the following actions should occur:
  - ◆ Upon request, the Subsidy Specialist should notify the adoptive family immediately, in writing, utilizing form [CS-0513, Adoption Assistance Agreement](#), [CS-0686, Notice of Denial Termination, or Change in Adoption Assistance](#) letter. Form [CS-0403, Appeal for Fair Hearing](#) must also be provided to the adoptive parent(s) at that time;
  - ◆ Form [CS-0686, Notice of Denial, Termination, or Change in Adoption Assistance](#) must be dated with the date it is mailed or, if hand delivered, the date it is hand delivered to the family;
  - ◆ The Subsidy Specialist should provide the Administrative Procedures Division with a copy of all notification documents that were provided to the adoptive family;
  - ◆ The Subsidy Specialist must inform the adoptive parent(s) of the timeframe in which they may file an appeal. The Subsidy Specialist must also provide the fax number and the mailing address to which form [CS-0403, Appeal for Fair Hearing](#), must be sent;
  - ◆ The Administrative Procedures Division will notify the appropriate county office if an appeal of Adoption Assistance is received. Once notified by the Administrative Procedures Division, the county must follow the direction of that office to ensure due process protocol is followed;
  - ◆ The Subsidy Specialist must complete an appeal summary as directed by the Administrative Procedures Division.

- ◆ Adoption Assistance payments may continue pending the determination of an appeal. If adverse action is upheld during an appeal, payments continued during the appeal period will be considered an overpayment and will be subject to recovery.
8. During the renegotiation process, if the department determines that renegotiating the subsidy rate presents a barrier to reunification or re-integrating the child back into the family home, the Director of Foster Care and Adoption or his/her Designee can waive completion of the renegotiation process, as long as the approved adoption assistance rate does not exceed the amount being provided in the foster care board payment. A memorandum signed by the Subsidy Specialist and the Director of Foster Care and Adoption or his/her designee should be placed in the adoption assistance file documenting the reason for the waiver and the approval.

### **Re-negotiation of Adoption Assistance when the child Re-enters State Custody and receives Title IV-E Adoption Assistance**

1. When a child receiving **Title IV-E adoption assistance** is placed in foster care, a review and/or re-negotiation of the subsidy rate is required. The amount of the adoption assistance payment cannot exceed the amount that the child is eligible to receive while placed in foster care, but should otherwise be determined through a renegotiation process between the department and the adoptive family. Changes to the subsidy rate will require the concurrence of the adoptive family through a signed revised adoption assistance agreement; however, in no case can the adoption assistance payment exceed the foster care maintenance payment paid during the period of time that the child is placed in foster care.
2. Once the department has determined that the parents continue to be legally responsible and are financially supporting the child, the department should enter into discussions with the adoptive parent (s) to determine if circumstances exist to warrant a renegotiation of the subsidy rate.
3. If an agreement is reached between the department and the adoptive family as to the amount of subsidy the rate, the Subsidy Specialist will complete a revised agreement and secure the appropriate departmental approval and signatures of the adoptive parent (s).
4. If the family disagrees with a departmental decision to reduce or terminate the adoption assistance rate, DCS will provide the family with an opportunity to appeal the state's decision through the appeal for fair hearing process and the most recent adoption assistance agreement will remain in effect until such time the outcome of the appeal is determined.
  - ◆ The Subsidy Specialist should notify the adoptive family immediately, in writing, utilizing form [CS-0513, Adoption Assistance Agreement](#), [CS-0686, Notice of Denial Termination, or Change in Adoption Assistance](#) letter. Form [CS-0403, Appeal for Fair Hearing](#) must also be provided to the adoptive parent(s) at that time;
  - ◆ Form [CS-0686, Notice of Denial, Termination, or Change in Adoption Assistance](#) must be dated with the date it is mailed or, if hand delivered, the date it is hand delivered to the family;
  - ◆ The Subsidy Specialist should provide the Administrative Procedures Division with a copy of all notification documents that were provided to the adoptive family;
  - ◆ The Subsidy Specialist must inform the adoptive parent(s) about the timeframe in which they may file an appeal. The Subsidy Specialist must also provide the fax number and the mailing address to which form [CS-0403, Appeal for Fair Hearing](#), must be sent;

- ◆ The Administrative Procedures Division will notify the appropriate county office if an appeal of Adoption Assistance is received. Once notified by the Administrative Procedures Division, the county must follow the direction of that office to ensure due process protocol is followed;
  - ◆ The Subsidy Specialist must complete an appeal summary as directed by the Administrative Procedures Division.
5. During the renegotiation process, if the department determines that renegotiating the subsidy rate presents a barrier to reunification or re-integrating the child back into the family home, the Director of Foster Care and Adoption or his/her Designee can waive completion of the renegotiation process as long as the approved adoption assistance rate does not exceed the amount being provided in the foster care board payment, a renegotiation of the adoption assistance rate is required. A memorandum signed by the Subsidy Specialist and the Director of Foster Care and Adoption or his/her designee should be placed in the adoption assistance file documenting the reason for the waiver and the approval.

### **Re-negotiation of Adoption Assistance when the child returns to the home from Re-entry into State Custody**

1. When a child returns or is physically placed back into the family home, the Subsidy Specialist will work with the adoptive family to re-negotiate the subsidy rate based on the rate structure or the rate that was in place prior to the child re-entering state custody. The effective date for the renegotiated rate should be the first day of the following month in which the child was physically placed back in into the home.
2. However, if the child's treatment needs have changed, the adoptive parent can submit a written request, with supporting documentation, in order to evaluate the subsidy for a rate increase. The effective date for any increase will be the first day of the following month in which the renegotiated rate was approved.

### **Suspension of Subsidized Permanent Guardianship**

1. SPG payments will be suspended immediately upon the Subsidy Specialist being notified that the child has re-entered custody. The effective date of the suspended rate should be the date the child re-entered custody.
2. The Subsidy Specialist will complete a revised agreement with the guardian(s) and secure appropriate signatures. The revised forms, [CS-0721, Subsidized Permanent Guardianship Agreement](#), reflecting a \$0.00 amount, [CS-0720, Notice of Denial, Termination or Change in Subsidized Permanent Guardianship](#) and [CS-0403, Appeal for a Fair Hearing](#), will be sent to the guardian(s) via certified mail. The Subsidy Specialist will also update the child's subsidy record in TFACTS accordingly.
3. The guardian(s) is responsible for informing the Subsidy Specialist when their child re-enters state custody.
4. If the family does not plan to reunify with the child or are not financially supporting the child, the Subsidy Specialist will terminate the suspended SPG agreement.

## **Re-negotiation of SPG when the child returns to the home from Re-entry into State Custody**

1. When a child returns or is physically placed back into the family home, the Subsidy Specialist will work with the guardian family to re-negotiate the subsidy rate based on the rate structure or the rate that was in place prior to the child re-entering state custody. The effective date for the renegotiated rate should be the first day of the following month in which the child was physically placed back in into the home.
  
2. However, if the child's treatment needs have changed, the guardian parent can submit a written request, with supporting documentation, in order to evaluate the subsidy for a rate increase. The effective date for any rate increase will be the first day of the following month in which the renegotiated rate was approved.

## **Dissolution of the Adoption/Permanent Guardianship**

In all cases in which an Adoption/ Permanent Guardianship dissolution occurs, the Adoption Assistance/ Subsidized Permanent Guardianship will be terminated effective the date of the dissolution.