

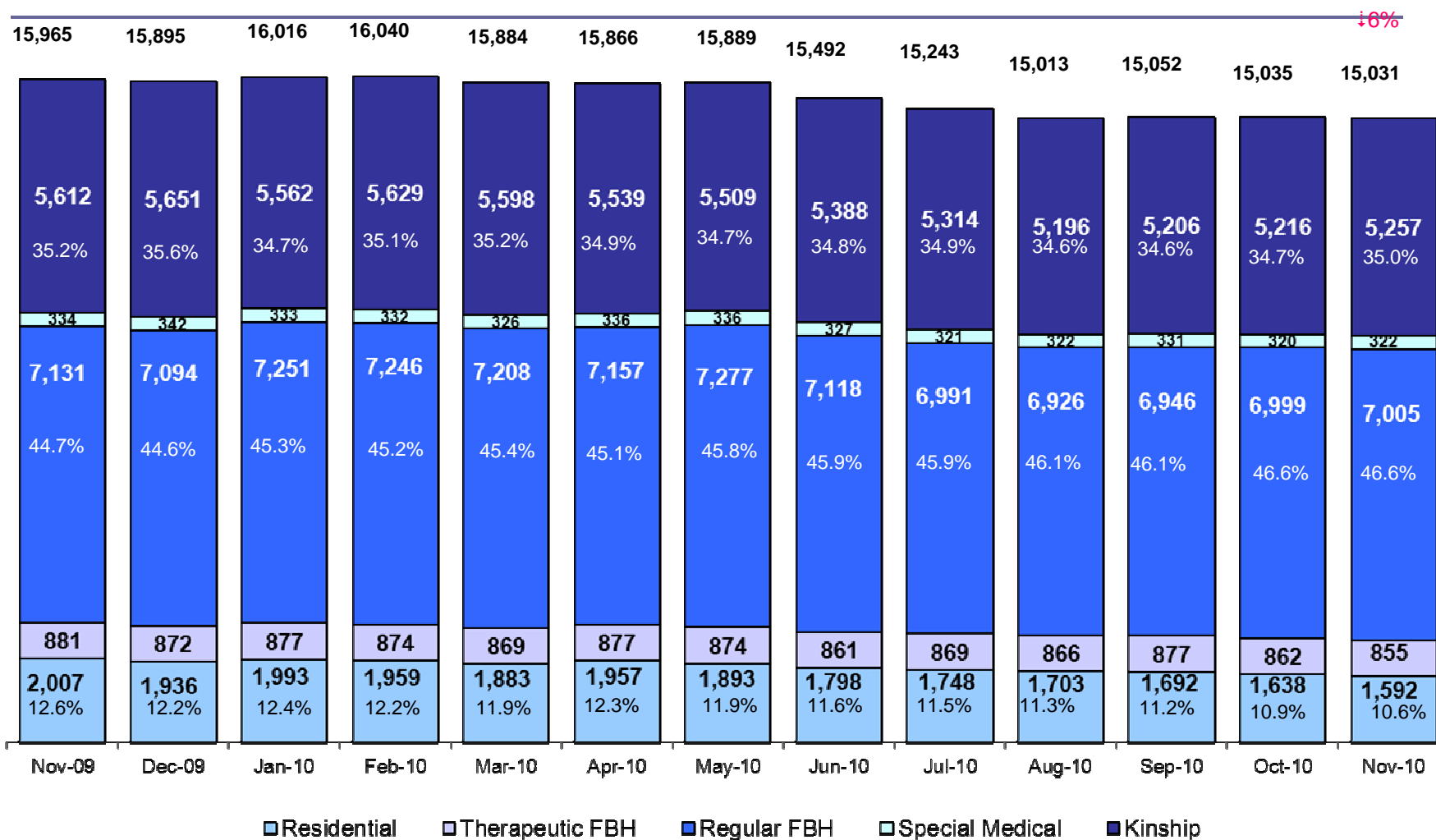
Implementing the Kinship Guardianship Assistance Program



Division of Family Permanency Services
May 2011

Lorraine Stephens, Deputy Commissioner

**Children in Foster Care*
(Agency-Reported, Point-in-Time) November 2009 – November 2010**





Children's Services

Statement of Principle

- Foster care provider agency staff are responsible for formulating a permanency plan for every child in our care, consistent with Adoption and Safe Families Act (ASFA) guidelines.

The preferred permissible ASFA plans are as follows and are listed in order of preference

- Return to Parent
- Adoption upon the filing of a petition to terminate rights
- Referral for legal guardianship

When does a child/prospective relative guardian qualify for this permanency alternative?

- For a child placed on an Article 10, when both the fact-finding and the first permanency hearing have been completed. For those not placed on an Article 10, when the first permanency hearing has been completed.
- When there is/are a documented compelling reason why reunification and adoption are not appropriate permanency alternatives
- The child is under 21 years of age
- The child was placed in foster care before the child's 18th birthday
- The child has been placed in the prospective relative guardian's home for at least 6 consecutive months

When does a child/prospective relative guardian qualify for this permanency alternative?

- The prospective relative guardian is a fully certified or approved foster parent for 6 months and is related to the child **through blood, marriage or adoption**
- The child demonstrates a strong attachment to the prospective relative guardian.
- The prospective relative guardian has a strong commitment to caring for the child on a permanent basis.
- The child has been consulted on the guardianship and in the case of a young person 18 years or older, the youth has consented

Kinship Guardianship Assistance Program

Does Children's Services have to do anything new early on in the process?

Yes

- There is a new "Notice of Rights" that must be provided to all of the child's grandparents and other adult relatives.
 - Notifies them that their grandchild/niece/nephew etc. is in foster care.
 - Explains the different ways in which they can care for the child.

Notifying Identified Kinship Relatives

- Within 30 days after the removal of a child the (CPS staff) must identify all of the child's grandparents and other adult relatives
- Provide notification that the child has been or is being removed explaining the options
- Foster care provider agency staff should review their current foster care caseloads and identify all foster children placed with a relative foster parent.

"Know Your Permanency Options: The Kinship Guardianship Assistance Program (KinGAP)": New OCFS Supplementary Publication

- OCFS has developed a new supplementary publication entitled, "Know Your Permanency Options: The Kinship Guardianship Assistance Program (KinGAP)", which must accompany the OCFS "Handbook for Relatives Raising Children" currently provided by foster care agency providers to foster parents during regularly scheduled "Parent to Parent" Meeting, MAPP Training, Caseworker visits etc.

Is Kinship Guardianship an Option?

How is the Agency determining whether this is in the child's best interests?

Foster care agency staff must assess the following case criteria and include their assessment as part of their consideration and recommendation as to why kinship guardianship is the appropriate permanency.

- The age of the child
- The length of time the child has been in care
- The length of time the child has been in the prospective relative guardian's home
- Whether the child's siblings reside in the same home as the child

How does the provider agency make a determination whether this is in the child's best interests?

- The following factors must be considered based on the likelihood that the child can be safely returned home to his/her parent(s) within a reasonable period of time:
 - Progress the parent has made toward reunification
 - Degree of engagement and assessment of behavioral changes by the parent based on the service plan such that the safety concerns have been resolved
 - Extent and quality of parent-child visits
 - Parent-child relationship
 - Child's relationship with his/her siblings
 - Reasonable efforts made toward reunification

How does the provider agency make a determination whether this is in the child's best interests?

The Agency must also consider:

- If the child cannot be returned home
 - the willingness of the prospective relative guardian to adopt
 - the willingness of the child to be adopted
- Whether adoption by another suitable adoptive parent would be in the child's best interests and found in a reasonable period of time
- Nature of the relationship between the child's parents and the prospective relative guardian
- Services provided by the foster care agency and supervision of the foster home are no longer necessary

Kinship Guardianship Assistance Program

What rights does the relative guardian have?

- Right to enroll child in school where the guardian lives
- Right/responsibility to make decisions (or consent) regarding the child's protection, education, care and control, health and medical needs and physical custody

Can the parent (s) request that the guardianship be revoked?

Yes. A parent can petition the court to revoke the guardianship.

- In order to revoke the guardianship the parent would have to prove that there was a change in circumstances significant enough to disturb the prior court order and that the revocation was in the child's best interests.
- The relative guardian would have to notify Children's Services that they were no longer eligible for payment should the court revoke the guardianship.

What supports does the child receive once Kinship Guardianship has been granted by Family Court?

- The relative guardian will receive monthly subsidy payments that are equivalent to the foster care board rate.
- Payments are monthly until the child's 18th birthday.
 - *However, if the agreement is signed after the young person turns 16, the payments continue until the youth's 21st birthday provided the youth is in school, working or is incapable of such activities.*
- The child is entitled to medical assistance until the child's 18th birthday.
 - *However, if the agreement is signed after the young person turns 16, the medical assistance continues until the youth's 21st birthday.*
- Any youth who leaves foster care through kinship guardianship after their 16th birthday is entitled to independent living services and is eligible for educational and training vouchers.

What happens if the relative guardian stops caring for the child?

- The relative guardian has an obligation to Children's Services
- The relative guardian must send complete a yearly certification for youth over 18 years of age (when the agreement was signed after their 16th birthday)
- The relative guardian is also requires a statement that a school-age child is enrolled in school.
- Payments may cease if the relative guardian is no longer providing "any support" for the child. The term "any support" means when the relative guardian is utilizing less than 50% of the monthly payments for the food, clothing, medical, educational or shelter needs of the child.
- If the child is later placed in foster care, the payments may cease.

How does our Children's Services/Agency process actually work?

- Children's Services has 30 days from the date it receives the completed application to determine whether to grant or deny the application.
- If the application is granted, Children's Services must enter into the agreement with the prospective relative guardian.
- If the application is not granted, Children's Services will provide the prospective relative guardian with written notice (through the foster care agency) of the disapproval, the basis for the disapproval and their right to a fair hearing.

Kinship Guardianship Assistance Program

What supporting documentation is the Agency required to forward to Children's Services with the application?

- Foster home certification/letter of approval
- Initial remand order determining that continuation in the child's home would be "contrary to the welfare" of the child, that reasonable efforts were made to prevent removal or that foster care was in the child's "best interests"
- Order of Fact-Finding (for neglect/abuse cases)
- Order of Permanency Hearing
- Copy of the executed voluntary placement agreement (for voluntary placements)

Documentation includes:

- The compelling reason why return to parent and adoption are not appropriate permanency goals;
- If siblings are separated, the reason for the separation;
- The ways in which the prospective relative guardian and child are eligible for kinship guardianship;
- The efforts that have been made to discuss kinship guardianship with the parent(s)

Kinship Guardianship Assistance Program

The Fair Hearing:

- The only issues that can be raised at a hearing
 - Whether the social services official has improperly denied an application for payments
 - Whether the social services official has failed to determine an application within 30 days of receipt.
 - Whether a social services official has improperly discontinued payments
 - Whether the social services official has improperly determined the amount of the payments