

## Subsidized Guardianship Guidance

### March 2023

#### Purpose

Subsidized guardianship payments, which are governed by Wisconsin Stat. § 48.623 and Wis. Admin. Code § DCF 55, support the legal permanence option of guardianship when reunification and adoption of a child are not deemed appropriate.

This guidance applies to eligible guardianships under Wis. Stat. § 48.977 or under a substantially similar tribal court order that originated in Wisconsin. This guidance does not apply to guardianships established under Wis. Stat. § 48.9795 (formerly Chapter 54) or a substantially similar tribal law.

Definitions in this guidance come from Wis. Stat. § 48.623 and Wis. Admin. Code § DCF 55.

#### Eligibility

Under Wis. Stat. § 48.623 and Wis. Admin. Code § DCF 55.03, an agency shall provide monthly subsidized guardianship payments to support the care of children in guardianships under Wis. Stat. § 48.977(2), or a substantially similar tribal law, and subject to agreements outlined in Wis. Admin. Code § DCF 55.01(2).

A **child** is eligible if the agency determines that all the following apply:

1. The child has been removed from their home pursuant to a voluntary placement agreement under Wis. Stat. § 48.63, or a substantially similar tribal law, or under a Wisconsin court order, or a substantially similar tribal court order, containing a finding that continued placement of the child in their home would be contrary to the welfare of the child.
2. The child has been residing in the home of the prospective guardian for at least six consecutive months immediately before the guardianship is established.
3. Reunification and adoption are not in the best interests of the child.
4. The child demonstrates a strong attachment to the prospective guardian.
5. If the child is age 14 or older, the child has been consulted regarding the guardianship agreement.
6. If the agency knows or has reason to know that the child is an Indian child, placement preferences as required under WICWA shall be followed and notice shall be sent to the child's parent, Indian custodian, and tribe as required by Wis. Stat. § 48.977(4)(c)(2m) and Wis. Stat. § 48.028(4)(a).
  - a. Tribal tradition and custom shall be considered when choosing permanency options in the best interests of an Indian child. See Wis. Stat. § 48.01(2).

A **prospective guardian** is eligible when the following criteria are satisfied:

1. The prospective guardian is the eligible child's relative, as defined in Wis. Stat. § 48.02(15) or § 48.028(2)(am), or is "like-kin" to the child.
  - a. "Like-kin" is defined in Wis. Admin. Code § DCF 55.02(7) as a person who has a significant emotional relationship with the child or the child's family and to whom either of the following applies:
    - i. Prior to the child's placement in out-of-home care, the person had an existing relationship with the child or the child's family that is similar to a familial relationship; or
    - ii. During the child's placement in out-of-home care, the person developed a relationship with the child or the child's family that is similar to a familial relationship and all of the following apply:
      1. The person is a foster parent who has had a relationship with the child for at least two years;
      2. The child is 14 years of age or older;
      3. The child has been placed in out-of-home care for 15 out of the last 22 months; and
      4. The agency or court determines that placement with a fit and willing relative is not in the child's best interest.
2. For not fewer than six consecutive months immediately before being named as the guardian of the child, the prospective guardian has been licensed as a foster parent, and the prospective guardian and all non-client residents in the guardian's home have met the background check requirements in Wis. Stat. § 48.685 and Wis. Admin. Code. §§ DCF 56.05(1)(f) and 56.055.

3. The prospective guardian has a strong commitment to permanently caring for the child.
4. Before being named guardian of the child, the prospective guardian entered into a subsidized guardianship agreement with the agency under Wis. Admin. Code § DCF 55.06.

Once the prospective guardian is the legal guardian of the eligible child under § 48.977, or a substantially similar tribal court order that originated in Wisconsin, the underlying CHIPS, JIPS, or tribal court order must be dismissed or terminated.

With regard to an eligible child's **siblings**:

1. An agency shall also provide subsidized guardianship payments for the care of a sibling of a child who meets the conditions in Wis. Admin. Code § DCF 55.03(1)(a), regardless of whether the sibling meets these conditions if the agency and guardian agree on the appropriateness of placing the sibling in the home of the guardian.
2. Subsidized guardianship payments, as authorized in Wis. Stat. § 48.623(1), shall be made on behalf of each sibling placed under the same agreement.

Some examples of like-kin relationships may include a close family friend, a clan member, an extended relative that is not included in the statutory definition of relative, a person who is in or has been in a committed long-term—but unmarried—relationship with a family member, a person who would be a relative if paternity were established, relatives of half-siblings, and kin defined by tribal code, resolution or custom. This list is non-exhaustive.

The guardian is not required to maintain a foster care license after the guardianship is established.

### **Determination of Appropriateness for Subsidized Guardianship**

An agency shall explain the following permanency options to each foster parent who is a relative of, or like-kin to, a foster child to whom they are providing care using the Permanency Options in Brief form (DCF-F-2797):

1. Adoption/customary adoption with adoption assistance;
2. Guardianship under § 48.977, or substantially similar tribal law, with subsidized guardianship payments;
3. Guardianship under § 48.977, or substantially similar tribal law, with long-term kinship care payments; and
4. Guardianship under § 48.9795, or substantially similar tribal law.

The foster parent shall sign the form and the agency must retain a copy of the signed form for the child's file.

The agency shall provide a description of all the following on the Subsidized Guardianship Eligibility Determination and Permanency Plan Addendum form (DCF-F-2691).

1. The efforts made to reunify the child and the reasons the agency determined that reunification is not in the child's best interests;
2. The steps the agency has taken to determine that adoption/customary adoption is not in the child's best interests and the reasons why adoption is not being pursued;
  - a. Include the efforts made to discuss adoption/customary adoption with the child's prospective guardian; and
  - b. Include the reasons the prospective guardian has chosen not to pursue adoption/customary adoption.  
**Note:** For children under the jurisdiction of a tribal court, for this purpose customary adoption is a permanency option that is equivalent to an adoption under Chapter 48.
3. The reasons why a permanent placement with a subsidized guardianship arrangement is in the child's best interests, including the prospective guardian's ability to maintain the child's relationship with their parent(s);
4. If the child is an Indian child and subject to the jurisdiction of a circuit court, a description of how the guardianship meets the requirements for placement preferences under §§ 48.028(7)(b) or 48.028(7)(c) unless a good cause is found not to place according to the placement preferences as provided under § 48.028(7)(e).
5. The ways in which the eligibility requirements for subsidized guardianship payments under Wis. Admin. Code § DCF 55.03 are met;
6. The reasons for any separation of siblings during placement with the prospective guardian;
7. The efforts made by the agency to discuss the subsidized guardianship arrangement with the child's parent(s), or the reasons why efforts were not made.

The agency must include this form in the child's permanency plan report that is submitted to the court.

If a person submits a written request for a determination of eligibility for subsidized guardianship payments, the agency shall provide a written determination of eligibility to the person no later than 30 days after receiving the request. The determination shall include a notice of the person's right to appeal the agency determination under Wis. Admin. Code § DCF 55.11.

### **Subsidized Guardianship Agreement**

Once it has been determined that a subsidized guardianship is appropriate for the eligible child and the prospective guardian, the agency must negotiate and enter into a written, binding subsidized guardianship agreement with the prospective guardian. The agreement must be completed and signed by the agency and the prospective guardian, and the agency must provide a copy of the signed agreement to the prospective guardian before the court awards guardianship.

The guardianship agreement must be documented on the Subsidized Guardianship Agreement form (DCF-F-CFS-2365-E) and must specify the following:

1. The amount of the monthly subsidized guardianship payments that will be provided under the agreement and the manner in which those payment may be adjusted periodically, in consultation with the guardian, based on the circumstances of the guardian and the needs of the child as identified in the [Uniform Foster Care Rate Setting Policy](#).
2. A description of the additional services and assistance that the child or guardian will be eligible for under the agreement and the procedures by which the guardian may apply for those.
3. That the agency will pay or reimburse the total cost of nonrecurring expenses directly related to obtaining guardianship of the child, to the extent the total cost does not exceed \$2,000. Examples of nonrecurring expenses includes court costs, attorney fees and other reasonable and necessary expenses which are directly related to the guardianship of the child.
4. That the agreement will remain in effect without regard to state residency of the guardian and child.
5. That medical assistance provided under Title XIX is available to the child as follows:
  - a. Medical assistance will be provided in accordance with the procedures of the state in which the child resides, except if a child receiving subsidized guardianship payments from an agency in Wisconsin is not eligible for medical assistance in the child's state of residence, the child is eligible for Wisconsin's medical assistance program under §§ 49.43 to 49.497.  
**Note:** Wisconsin's medical assistance may not be accepted by providers in other states.
  - b. Medical assistance may not be used as primary insurance coverage for care of a child that is covered by a guardian's private health insurance.  
**Note:** Guardians are not required to add the child to their private health insurance. If the guardian chooses to add the child to their private health insurance, they shall complete the BadgerCare+/Medicaid Health Insurance Information form (DHS-F-10115) before the court awards guardianship. If the guardian chooses to continue the child's Title XIX medical assistance, this form does not need to be completed and they should mark it with an "X."
6. The agency's responsibility to release medical, educational, and other historical information the agency has about the child to the prospective guardian, in accordance with applicable law.
7. The requirement that the guardian notify the agency within 10 calendar days of the effective date if any of the following occur:
  - a. The guardian's address changes.
  - b. There is a change in the child's guardian.
  - c. The child enters the military.
  - d. The child gets married.
  - e. The child is no longer living in the home of the guardian.
  - f. The child is deceased.
  - g. The child completes high school or an equivalent education program after reaching 18 years of age.
  - h. If the child is covered by the guardian's health insurance and the guardian's health insurance benefits change or if the child was not covered by the guardian's health insurance and becomes covered.
  - i. The guardian is no longer supporting the child or is no longer legally responsible for the child.
  - j. The child is placed outside the guardian's home.
  - k. The child's parent is residing with the guardian.
8. The guardian's responsibility to complete and return the annual review questionnaire to the agency in a timely manner to determine whether the child and guardian remain eligible for subsidized guardianship payments.

9. A description of the terms upon which the subsidized guardianship agreement may terminate and the ability for the agency to recover any overpayment from a current or former guardian.
10. That the guardian may be eligible for adoption assistance under Wis. Stat. § 48.975 for care of the child if the guardian later decides to adopt the child.
11. That the guardian may name a prospective successor guardian of the child to assume the duty and authority of guardianship upon the death or incapacity of the guardian.

Counties must provide monthly subsidized guardianship payments to eligible guardians of children who are under a guardianship order by a tribal court that is substantially similar to a Wis. Stat. § 48.977 guardianship.

### **Monthly Subsidized Guardianship Payment Determination and Amendments**

The amount of a subsidized guardianship payment shall be the amount in the initial subsidized guardianship agreement under Wis. Admin. Code § DCF 55.06 or as adjusted by an amendment to the subsidized guardianship agreement signed by both the guardian and the agency under Wis. Admin. Code § DCF 55.08

#### Initial Payment Determination

- The monthly payment amount shall not exceed the amount of the foster care payment received by the prospective guardian for the care of the child in the month immediately preceding the month in which the guardianship is ordered.
- The basic maintenance and exceptional payment amount cannot be modified after the guardianship is established.
  - Note:** Agencies should ensure applicable exceptional costs are included in the initial payment determination.
  - Note:** Agencies should be mindful of the increases in basic rate based on the child's age.
    - For example, if the child turns five, twelve, or fifteen between the time the subsidized guardianship agreement was signed and the guardianship court hearing is scheduled, the agency should update the monthly subsidized guardianship payment amount to reflect the increase in the child's basic maintenance rate.
- The supplemental payment amount is based on the child's identified needs determined by the most recently approved Child and Adolescent Needs and Strengths (CANS) assessment. This amount can be increased through an amendment request as detailed below.
  - Note:** There are different CANS algorithms for foster care and subsidized guardianship. As a result, there may be a slight difference in the supplemental points and supplemental rate calculated.

#### Amendment to the Monthly Payment Amount

The guardian may request that the subsidized guardianship agreement be amended to increase the amount of the monthly payments if the guardian believes that there has been a substantial change in circumstances and the timing of the request is any of the following:

- Not less than 12 months after the guardianship was established or after a previous request for an amendment was denied.
- Within 120 days before the expiration date of an amendment.

A substantial change in circumstances refers to a documented change in one or more areas of the child's identified emotional, behavioral, or physical/personal care needs as moderate or intensive on the subsidized guardianship CANS algorithm.

- The agency shall send the guardian the subsidized guardianship amendment request packet, which includes:
  - Subsidized Guardianship Amendment Request form that the guardian completes
    - Subsidized Guardianship Amendment Request Age Birth to 5 Child and Adolescent Needs and Strengths (CANS) Version form (DCF-F-2867) or
    - Subsidized Guardianship Amendment Request – Age 5 to 17 Child and Adolescent Needs and Strengths (CANS) Version form (DCF-F-2868)
  - Subsidized Guardianship Amendment Request – Confirmation of Needs form(s) that the guardian sends to an appropriate professional who can confirm the child's current needs:
    - Subsidized Guardianship Amendment Request – Confirmation of Needs Emotional Characteristics Age Birth to 5 form (DCF-F-2869)
    - Subsidized Guardianship Amendment Request – Confirmation of Needs Emotional Characteristics Age 5 to 17 form (DCF-F-2870)

- Subsidized Guardianship Amendment Request – Confirmation of Needs Behavioral Characteristics Age Birth to 5 form (DCF-F-2871)
- Subsidized Guardianship Amendment Request – Confirmation of Needs Behavioral Characteristics Age 5 to 17 form (DCF-F-2872)
- Subsidized Guardianship Amendment Request – Confirmation of Needs Physical/Personal Care Characteristics Age Birth to 5 form (DCF-F-287)
- Subsidized Guardianship Amendment Request – Confirmation of Needs Physical/Personal Care Characteristics Age 5 to 17 form (DCF-F-2874)

**Note:** there are different forms for subsidized guardianship agreements entered into before July 1, 2011 (refer to Wis. Admin. Code § DCF 55.08(3)(a) for a list of these forms)

- Once the agency receives a guardian’s request documentation to amend the agreement, they shall make a decision on the information submitted within 45 days or make a determination that additional information is needed.
- The agency must complete a child abuse and neglect background check on the guardian for every jurisdiction they have resided in to determine if the guardian has a final substantiated finding that the guardian abused or neglected the identified child.
- If the agency determines that there has been a substantial change in circumstances that establishes the need for an increased supplemental payment and there is no substantiated report of abuse or neglect of the child by the guardian, the agency must offer to increase the amount of the subsidized guardianship payment.
- The agency determines the new monthly payment amount. Only the supplemental portion of the rate may be adjusted based on an updated CANS assessment. This portion of the rate may increase from the original payment amount but may not decrease below the original supplemental portion of the payment amount without the consent of the guardian.
- The agency provides the guardian with written notice of the agency’s decision on the Notice of Approval for Amendment for Subsidized Guardianship (DCF-F-2756) or Notice of Denial for Amendment for Subsidized Guardianship (DCF-F-2765), which includes information on the guardian’s right to appeal that decision.
- If the agency and guardian agree on a new monthly payment, they shall sign an amended subsidized guardianship agreement that specifies the new monthly payment amount and the time period that the amendment will be effective.
  - The first amendment to a subsidized guardianship agreement is effective the first day of the month following the date that the agency receives the amended agreement signed by the guardian and the agency.

#### Review of Amendments

Amendments shall be reviewed by the agency on an annual basis to assess the continued needs of the child. The amended portion of the rate may decrease if upon the annual review it is determined the child’s needs no longer demand a higher rate.

- At least 120 days before the expiration of an amendment, the agency shall send the guardian information on how to request the continuation of the payment amount in the amendment. The guardian has the option to:
  - Continue with the same payment amount for one year.
    - The agency shall send the Notice of Amendment Expiration – Option to Continue Current Rate (DCF-F-2767) and Subsidized Guardianship Amendment Request – Option to Continue Current Rate (DCF-F-2782) to the guardian so they can document that the substantial change in circumstances continues to exist.
  - Request amendment to the payment amount.
    - The agency shall send the Notice of Amendment Expiration – Complete Documentation Request (DCF-F-2766) and the subsidized guardianship amendment request packet documentation for the guardian to complete and the agency follows the same amendment determination process outlined above.

**Note:** The guardian may “Complete Documentation Request” every year but can only pursue the “Option to Continue the Current Rate” for one year before they are required to “Complete Documentation Request” to maintain their amendment.

- If a guardian’s request for continuation of the payment amount in an amendment is received by the agency 30 days or more before the expiration date of the amendment, the agency shall make a determination of the request before the current amendment expires. The agency may determine any of the following:
  - The substantial change in circumstances that was the basis for the amendment continues to exist.
  - A substantial change in circumstances exists as a basis for the monthly payment amount to be more than the amount in the initial payment determination but less than the current amendment amount.
  - A substantial change in circumstances no longer exists as a basis for the monthly payment amount to be more than the initial payment determination.

- If the agency does not receive the guardian’s request for continuation within 30 days of the expiration date, the agency shall pay the guardian the amount in the initial subsidized guardianship agreement effective the first day of the first month after the expiration expires.
- The agency provides the guardian with written notice of the agency’s decision on the Notice of Approval for Amendment for Subsidized Guardianship (DCF-F-2756) or Notice of Denial for Amendment for Subsidized Guardianship (DCF-F-2765), which includes information on the guardian’s right to appeal that decision.
- If the guardian appeals a decision to decrease a subsidized guardianship payment within 10 days of the date of the notice to decrease the subsidized guardianship payment, then the agency must continue to make the higher payment until a decision is made by the Division of Hearings and Appeals.
- If the agency and guardian agree on a new monthly payment, they shall sign an amended subsidized guardianship agreement that specifies the new monthly payment amount and the time period that the amendment will be effective.
  - Any amendment after the initial amendment is effective the first day of the month following the date that both of the following have occurred:
    - The date that the agency receives the amended agreement signed by the guardian and the agency.
    - The date that a previous amendment has expired.

### **Continued Eligibility Reviews**

An agency shall review whether a child and guardian continue to be eligible for subsidized guardianship payments by sending the guardian the Subsidized Guardianship Request for Information to Determine Continued Eligibility form (DCF-F-2736) at the following times:

1. Annually, beginning not fewer than 12 months after the date the agency made the first payment to the guardian.
  - a. Agency shall send the form not fewer than 60 days before the guardian’s annual review date.
  - b. If the guardian has not returned the form 30 days after the agency sent it, the agency shall send a second copy of the form.
2. Thirty days after the child’s parent began residing with the guardian and child (unless the guardian is providing care for the child’s parent who is either a minor or subject to an adult protective services order or protective placement under Wis. Stat. § 55.12.)
3. When the agency receives notice from the guardian or otherwise knows that a change in circumstances under Wis. Admin. Code § DCF 55.10(1) has occurred.

Upon receipt of the continued eligibility form from the guardian, the agency will document the receipt of this form in the child’s electronic case record and determine if the agency will continue the payments. This form shall not be used as an opportunity to interject additional child welfare involvement onto the family.

#### Eligibility After Age 18

A child who is 18 years of age or older may be eligible to continue to receive monthly subsidized guardianship payments if no change affecting eligibility has occurred and 1., 2., or 3. applies:

1. The child is 18 years old and is enrolled in, and regularly attending, a secondary education classroom program leading to a high school diploma or its equivalent.
2. The child is 19 or 20 years old, and all the following apply:
  - a. The child is enrolled in and regularly attending a secondary education classroom program leading to a high school diploma or the equivalent.
  - b. The child has a physical, emotional, or behavioral need.
  - c. The social security administration has determined that the child is ineligible for Social Security disability insurance or Supplemental Security Income for not meeting the disability standard in 42 USC § 423(d) or 42 USC § 1382c(a).
  - d. The agency determines that the child’s physical, emotional, or behavioral need warrants the continuation of assistance under Wis. Stat. § 48.623.
3. The child is under age 21 and all the following apply:
  - a. The child is a full-time student at a secondary school or its vocational or technical equivalent
  - b. There is an individualized education program under Wis. Stat. § 115.787 in effect for the child, and the guardian or interim caretaker submits a copy to the agency.

- c. The subsidized guardianship agreement for the child became effective after the child turned 16 years old.  
**Note:** Subsidized guardianship payments may be reinstated if a guardian or interim caretaker terminated the subsidized guardianship agreement when the child was 18 or over and the child meets the requirements above.

To determine whether a guardian is eligible to continue receiving payments after a child has reached the age of 18, the agency must send the guardian the Advance Notification of Termination of the Subsidized Guardianship Prior to Age 18 form (DCF-F-CFS-2421) at the following times:

- Six months before the child's 18th birthday
- 60 days before the child's 18<sup>th</sup> birthday if the agency has not received the completed form and documentation requested

If the agency receives the completed form and necessary documentation from the guardian 30 days or more before the child's 18<sup>th</sup> birthday, the agency shall determine whether eligibility will continue when the child turns 18 years old and sent the Notice of Decision on Subsidized Guardianship Eligibility Status After 18 form (DCF-F-CFS-2420) within 15 days of receipt of the completed documentation.

If the agency has not received the completed form and necessary documentation from the guardian by 30 days before the child's 18<sup>th</sup> birthday, the last payment under the subsidized guardianship agreement shall be for the month of the child's 18<sup>th</sup> birthday.

## Suspension and Termination Determinations

When the agency learns that there has been a change in circumstances, the agency should seek additional information to determine if it impacts the child or guardian's eligibility criteria prior to suspending or terminating the subsidized guardianship payment.

Pursuant to Wis. Admin. Code § 55.10(5)(bm)1., suspension of the subsidized guardianship payments is appropriate based on any of the following reasons:

- The agency did not receive the completed annual review form from the guardian on or before the annual review date.
- The child is temporarily placed outside the guardian's home.
- The child is temporarily not being supported by the guardian.

The agency may reinstate payments effective the date that the agency receives verification that the change(s) affecting eligible no longer exist, such as receiving the completed annual review form from the guardian after the review date and none of the changes affecting eligibility have occurred or the child has been placed back in the guardian's home.

Pursuant to Wis. Admin. Code. § 55.10(5)(bm)2., termination of the subsidized guardianship payments is appropriate based on any of the following:

- There has been a change in the child's guardian.
- The child has entered the military.
- The child is married.
- The child is no longer living with the guardian.
- The child is deceased.
- The child graduated, completed, or dropped out from a full-time, kindergarten to 12<sup>th</sup> grade educational program or its equivalent.
- The guardian is no longer supporting the child.
- The guardian's legal responsibility for the child has ended.
- The child's parent is residing with the guardian and child.  
**Note:** If the child's parent is a minor or subject to an order for adult protective services or protective placement under Wis. Stat. § 55.12 subsidized guardianship payments can continue.
- The guardian requests in writing that the subsidized guardianship be terminated.

If an agency determines that a child or guardian is no longer eligible for subsidized guardianship payments, the payments must be suspended or terminated, and the agency must send the guardian the Notification of Subsidized Guardianship Suspension or Termination form (DCF-F-CFS-2737) 30 days before the anticipated end of the payment period. Once the subsidized guardianship agreement is terminated, it cannot be re-opened. A termination of the subsidized guardianship agreement also terminates the child's Title XIX Medical Assistance but does not terminate the court-established guardianship.

**Note:** Current eWiSACWIS logic prevents a child with an open subsidized guardianship agreement from being pulled into a different casehead for case work functions (included in an initial assessment, case or permanency plan, etc.). To keep the subsidized guardianship agreement open while completing other casework, email the eWiSACWIS Help Desk and ask them to remove the SG person type from the youth's person management page to resolve this issue.

## Appeals

The guardian or prospective guardian who pursues a subsidized guardianship agreement may appeal the following agency actions or failures to act:

- The agency did not act promptly on a person's request for determination of eligibility for subsidized guardianship payments
- The agency denied a person's request for a determination of eligibility for subsidized guardianship payments on the grounds that a condition specified in § DCF 55.03 has not been met.
- The agency denied a guardian's request for an amendment or continuation of an amendment to the subsidized guardianship payment.
- The agency approved a guardian's request for an amendment at an amount that is less than the amount that the guardian considers appropriate.
- The agency suspended or terminated a guardian's subsidized guardianship payment.

The deadline for an appeal and the address of the Division of Hearings and Appeals must be provided to the prospective or current guardian of the child in any written correspondence conveying the notice of any of the decisions above. Review is unavailable for actions that arose 45 days before the appellant submitted their petition to the Division of Hearings and Appeals.

If the guardian requests a hearing within 10 days after the date of the notice that their subsidized guardianship payments are being decreased or discontinued, those payments may not be decreased or discontinued until a decision is rendered by the Division of Hearing and Appeals. Those payments may be recovered by the agency if the contested action or failure to act is upheld, or the recipient withdraws or abandons the petition.

The address to mail an appeal is:

Division of Hearings and Appeals  
P.O. Box 7875  
Madison, Wisconsin 53707

Or the appeal may be hand-delivered to the Division at 4822 Madison Yards Way, 5th Floor North, Madison, WI 53705.

## Successor Guardian

In the event of the death or incapacity of a guardian who was receiving subsidized guardianship payments, the agency shall determine the eligibility of a person named as a prospective successor guardian in a subsidized guardianship agreement or amended agreement that was entered into before the death or incapacity of the guardian.

A prospective successor guardian is eligible to enter into a new subsidized guardianship agreement with the agency responsible for the current agreement if the agency determines all the following apply:

1. The prospective successor guardian demonstrates a strong commitment to caring permanently for the child.
2. If the child is age 14 or older, the child has been consulted regarding this arrangement.
3. The agency determines that the prospective successor guardian is eligible to be licensed and the prospective guardian and nonclient residents in the home meet the background check requirements in § 48.685 and § DCF 55.13.
  - a. The prospective successor guardian is not required to be licensed
4. The agency inspects the prospective guardian's home, interviews them, and determines that placement of the child with the prospective successor guardian is in the best interests of the child. For an Indian child, the best interests of the Indian child shall be determined in accordance with § 48.01(2).
5. If the agency knows or has reason to know that the child is an Indian child, the agency must provide notice of the Indian child's placement in the home to the Indian child's parent, Indian custodian, and tribe, and determine that the home complies with the order of placement preferences in § 48.028(7)(b) or § 48.028(7)(c), unless good cause as described in § 48.028(7)(e) is found for departing from that order.



The agency must document the prospective successor guardian's eligibility determination on the Subsidized Guardianship Successor Guardian Eligibility Determination form (DCF-F-5069-E).

If the agency determines that the prospective successor guardian is eligible, the agency must negotiate and enter into a written, binding subsidized guardianship agreement with the prospective guardian. The agreement must be completed and signed by the agency and the prospective guardian before the court enters the guardianship order under § 48.977(5m) or under a substantially similar tribal court order that originated in Wisconsin. Once the guardian is appointed, the agency may begin payments to the successor guardian.

If a successor guardian is waiting to be appointed guardian and they meet the eligibility requirements for interim caretaker, they may receive monthly payments as an interim caretaker.

### **Interim Caretaker**

In the event of the death or incapacitation of a subsidized guardian or the termination of the guardianship, the agency shall provide monthly payments to an interim caretaker for a period of up to 12 months, if all the following conditions are met:

1. Agency completes background checks on the interim caretaker and any non-client resident in their home under Wis. Stat. § 48.685 and Wis. Admin. Code § DCF 55.13 and determines that the individuals meet the requirements therein.
2. Agency inspects the interim caretaker's home, interviews the interim caretaker, and determines that placement is in the best interests of the child. For an Indian child, the best interests of the Indian child is determined in accordance Wis. Stat. § 48.01(2).
3. The interim caretaker assists the agency in finding a permanent placement for the child.
4. If the agency knows or has reason to know that the child is an Indian child, the agency must provide notice of the child's placement in the home of the interim caretaker to the child's parent, Indian custodian, and tribe, and determine that the home of the interim caretaker complies with the order of placement preferences in Wis. Stat. § 48.028(7)(b) or § 48.028(7)(c), unless the agency finds good cause (described in § 48.028(7)(e)) to depart from that order.

If the interim caretaker decides that they want to become the child's guardian and receive monthly subsidized guardianship payments, both the child and interim caretaker must meet the eligibility requirements described in the Eligibility section on page 1 above. Once it has been determined that a subsidized guardianship is appropriate for the eligible child and the interim caretaker, the agency must negotiate and enter into a written, binding subsidized guardianship agreement with the interim caretaker. The agreement must be completed and signed by the agency and the interim caretaker, and the agency must provide a copy of the signed agreement to the interim caretaker before the court awards guardianship.



The Department of Children and Families is an equal opportunity employer and service provider. If you have a disability and need to access services, receive information in an alternate format, or need information translated to another language, please call the Division of Safety and Permanence at (608) 422-7000. Individuals who are deaf, hard of hearing, deaf-blind or speech disabled can use the free Wisconsin Relay Service (WRS) – 711 to contact the department.