

Chapter Ten

Kinship Care

Much of this chapter is drawn from “Caring for a Relative’s Child: A Guide for Kinship Caregivers in Los Angeles County,” published by Bet Tzedek Legal Services. To order copies, please call Bet Tzedek at (323) 549-5897.

Table of Contents

Introduction.....	1
Forms of Caregiving.....	3
Available Assistance For Informal Relative Caregivers.....	5
Available Assistance When Relative Has Legal Authority Over Child.....	6
Resources.....	8
Supplemental Materials.....	9

Chapter Ten: Kinship Care

Introduction

Background

Millions of children in the United States live with caregivers who are not their parents. The majority of these caregivers are grandparents. Due to various socioeconomic factors, this trend in “kinship care” has seen a dramatic increase over the last decade.

This chapter gives a general review of the issues involved in kinship care, and provides assistance in dealing with problems that often arise.

What is Kinship Care?

Kinship care means different things to different people. In its broadest sense (in a definition used by the Child Welfare League of America), it is the “full time care, nurturing and protection of children by relatives, members of their tribes or clans, godparents, stepparents, or any adult who has a kinship bond with a child.” The State of California’s definition of kinship care is significantly narrower, limited to the care of children by “relatives.”

Regardless of the scope of kinship care’s definition, the goal of kinship care is to allow a child to grow into adulthood in a family environment.

Growth of Kinship Care

The 1990’s saw a dramatic increase in the number and proportion of children living with relatives. According to the Child Welfare League of America, this increase can be attributed to the benefits of kinship care, and to various other factors that have contributed to the breaking-up of parent-child relationships:

- Increased reporting of abuse and neglect;
- Increased use of crack cocaine and other drugs;
- Increased levels of poverty;
- Spread of HIV/AIDS;
- Parents’ struggles with physical and mental health problems;
- Family violence and parental incarceration;
- Decline in availability of traditional foster homes; and
- Increased number of children in foster care.

Chapter Ten: Kinship Care

The Numbers

According to the Child Welfare Information Gateway, 30 percent of the 427,910 children in foster care in the United States on September 30, 2015 were living with relatives. Here in Los Angeles County, nearly half of the children in foster care were placed with relatives.¹ In 2012, 10% of the grandparents in the United States were living with a grandchild; of these 7 million grandparents, 2.7 million were raising their grandchildren without either parent in the home.²

1 Los Angeles County DCFS April 2017 Fact Sheet, http://www.lacdcfs.org/aboutus/fact_sheet/DRS/2017/Fact_Sheet_April2017.pdf

2 Coresident Grandparents and Their Grandchildren: 2012, <https://www.census.gov/content/dam/Census/library/publications/2014/demo/p20-576.pdf>

Chapter Ten: Kinship Care

Forms of Caregiving

Relative Caregivers with Informal Authority

Many times, a child is placed in the care of a grandparent not through the courts, but via some informal agreement with the parent(s). In this kinship care situation, relatives simply assume responsibility for a child in need without involvement from the court system, child protective services, or other authorities.

Caregivers with informal authority may have physical custody of the child, but have limited rights to make decisions regarding the child. A grandparent may find it difficult to consent to medical procedures for the child, or to enroll the child in school. Additionally, the grandparent may not be eligible for as much financial assistance from the state and federal governments, and the type of care of assistance and medical care may be limited in scope.

Another disadvantage of an informal caregiving relationship is the lack of a sense of permanence. In most informal caregiver situations, the child's parents have the authority at any time to return and take the child away.

It should be noted that a caregiver with informal authority may obtain greater authority by preparing a "Caregiver Authorization Affidavit." The Affidavit is short, simple and very easy, and can address health care and school enrollment. The Affidavit is signed by the caregiver, who certifies that he or she has informed (or tried to inform) the child's parent(s) of the caregiver's intent to make decisions on the child's behalf. A copy of the Affidavit is included at the conclusion of this chapter.

The following chart compares some of the main differences and similarities between informal relative caregivers and legal guardians.

Informal Custody

- Parents have full rights, including right to reclaim child at any time
- Child ineligible for health care coverage under caregiver's employee health plan
- Caregiver cannot consent if consent of "parent or legal guardian" required
- Parents have responsibility to financially support child

Legal Guardianship

- Parents' rights suspended and transferred temporarily to legal guardian; parent must go to court to terminate legal guardianship before reclaiming child
- Child eligible for health care coverage under caregiver's employee health plan
- Legal guardian can give consent
- Parents have responsibility to financially support child

Chapter Ten: Kinship Care

Relatives As Foster Parents

When a child is placed in foster care by a county, the county social worker and court must give preferential consideration to an approved relative caregiver.

The parent must disclose all known relatives. Then, the social worker must contact the relatives given preferential consideration, to determine if any of those relatives wish that the child be placed with them. If a relative wishes to have the child placed with him, that relative must be assessed.

There have been significant changes in California law regarding foster care. One result of those changes is that a relative caregiver's home must meet the same licensing standards as all other foster parent homes.

Adoption

Adoption is a process in which the mother's and father's parental rights are terminated. Relative caregivers who adopt are considered the child's parents under the law. Adoption permanently terminates all of the biological parents' rights and obligations; this includes visitation and financial support. Traditionally, adoption had been the long-term solution preferred by the dependency court, the court that oversees cases where a child has been removed from a parent's home by the Department of Children and Family Services. However, adoption may not be an appropriate solution for many kinship families, and guardianship is now recognized as another appropriate option for providing stability in such a child's life.

Legal Guardianship

A guardianship is a court-ordered change in custody by which parental rights are suspended and a "legal guardian" is appointed to provide care, custody, and control of the child. A legal guardian has the ability to act on the child's behalf and make decisions regarding the child. The establishment of a guardianship does not terminate parental rights altogether, and a parent, or any other interested person, can petition the court to terminate the guardianship. A guardianship can be established in any juvenile court; however, most guardians are appointed in Probate Court.

Chapter Ten: Kinship Care

Available Assistance For Informal Relative Caregivers

Financial Assistance

Grandparents who find themselves in an informal relative caregiver situation may be able to obtain financial assistance through CalWORKs (California Work Opportunity and Responsibility to Kids). CalWORKs is a statewide program that provides cash assistance to families with children under 19 years of age. The amount of the monthly payment for a child is based on the total number of children in the home and whether the adult caregiver also receives CalWORKs assistance. Payment in Los Angeles County for a single child ranges from about \$355 to \$392 per month.

All children who are U.S. citizens or legal permanent residents (green card) are eligible. The income of the caregiver relative is irrelevant. Financial assistance generally is greater if the child is in the foster care system, rather than in an informal relative caregiver situation.

Health Care Assistance

Medi-Cal is the primary means of medical assistance for children in informal caregiver situations. As explained in more detail elsewhere in this manual, Medi-Cal is a statewide medical assistance program that provides coverage for minor children, and in some cases, the relative caring for them, if financial eligibility standards are met. A child receiving CalWORKs is automatically eligible for medical coverage through the Medi-Cal program, regardless of the relative caregiver's household income.

Chapter Ten: Kinship Care

Available Assistance When Relative Has Legal Authority Over Child

Financial Assistance and Health Care Assistance

When a child is under the care of a legal guardian, assistance from the CalWORKs and Medi-Cal programs can be available, just as that assistance can be available for a child in an informal caregiver situation. See above for a discussion of CalWORKs and Medi-Cal.

Foster Care Relative Caregivers

When a child is removed from a parent's home due to neglect or abuse, the Department of Children and Family Services (DCFS) acquires legal custody of the child, and the child is placed in the state foster care system. Under state law, relatives are given the first opportunity to take care of the child. The state retains legal custody of the child unless foster care relative caregivers obtain guardianship or adopt.

As discussed on the following pages, approved foster care relative caregivers are eligible for a wider range of financial and medical assistance, as compared to the assistance available to informal relative caregivers. Some of this assistance remains applicable even if the foster care relative subsequently obtains legal guardianship or adopts.

Additional Financial Assistance

The rate structure for foster care benefits in California has been drastically overhauled effective January 1, 2017. For many years, the foster care rate for a child was based upon a myriad of factors including the age of the child, the income of the home from which the child was removed, and the familial relationship of the child and the person with whom they were placed. California's foster care rates are now tied to the health and behavioral needs of the child.

As part of the restructuring process, the rates for families that had been receiving assistance through the Kinship Guardianship Assistance Payment (Kin-GAP) or the Non-Related Legal Guardian (NRLG) Program, where guardianship was established prior to or after May 1, 2011, will not change. However, for Kin-GAP cases in which the guardianship was established and the dependency proceedings were terminated on or after May 1, 2011, the Kin-GAP rate may be increased upon reassessment of the circumstances of the caregiver and the needs of the child.

Similarly, the rates for families that had been receiving assistance through the Adoption Assistance Program (AAP), the monthly payments given to relative caregivers who adopt a child in the foster care program, will not change in cases where the AAP agreement was signed and the adoption was finalized prior to May 27, 2011. However, in cases where the AAP agreement was signed or the AAP eligible adoption was finalized on or after May 27, 2011, the rate may be reassessed based on the changing needs of the child or the circumstances of the adoptive parent.

Chapter Ten: Kinship Care

Advantages of Adoption

Even if a foster care relative caregiver chooses to forgo the legal guardianship process, he or she can obtain formal custody by adopting the child. Indeed, this process provides the most permanent solution. The caregiver will still be able to get both medical and financial assistance after the process is complete; AAP benefits (explained on prior page) will continue until the child is 18.

Grandparents may consider adopting the child in an effort to secure permanency. Significantly, informal relative caregivers who adopt do not receive automatic financial or medical assistance from the state. Foster care relative caregivers, on the other hand, may be eligible to receive both Adoptive Assistance Program (AAP) benefits and Medical benefits.

Chapter Ten: Kinship Care

Resources

Additional Benefits

Besides the core set of benefits available to relative caregivers already mentioned, other benefits or resources may be available, including:

- Child support payments;
- Food programs;
- In-Home Supportive Services;
- Regional center services;
- Social Security Administration benefits; and
- Veteran's benefits.

In-Home Supportive Services and Social Security Administration benefits are discussed elsewhere in this manual.

Support Services

Relative caregivers often can benefit from support services. Resources in the Los Angeles County area include the following:

The Kinship Care Project of Bet Tzedek Legal Services (323) 549- 5879 may provide legal assistance under certain circumstances.

The Children's Rights Project of Public Counsel (213) 385-2977 also may provide legal assistance under certain circumstances.

Advocates 4 Family Caregivers, Office of Samoan Affairs Community Center (310) 538-0546 provides advocacy and guidance for families involved with Dependency Court, Family Court, Probate Court, DCFS, and Individualized Education Plans.

Grandma's House, a program of the Children's Institute International (CII) provides kinship care support services in the Los Angeles area. Drop-in counseling and assessments for children and families are available along with weekly support groups and social/recreational activities for relative caregivers and their children. Information can be obtained by calling (213) 807-1821, or reviewing Internet information at www.childrensinstitute.org.

Grandparents as Parents, Inc. (GAP) currently operates support groups in Sherman Oaks, Inglewood, Panorama City, Pasadena, Carson, Long Beach and Compton. GAP can be reached at (818) 789-1177 or (714) 761-2231.

Chapter Ten: Kinship Care

Supplemental Materials

Caregiver's Authorization Affidavit.....10-10

Chapter Ten: Kinship Care

PR-E-LP-023

CAREGIVER'S AUTHORIZATION AFFIDAVIT

Use of this affidavit is authorized by Part 1.5 (commencing with Section 6550) of Division 11 of the California Family Code.

Instructions: Completion of items 1-4 and the signing of the affidavit is sufficient to authorize enrollment of a minor in school and authorize school-related medical care. Completion of items 5 through 8 is additionally required to authorize any other medical care. Print clearly.

The minor named below lives in my home and I am 18 years of age or older.

1. Name of minor: _____
2. Minor's birth date: _____
3. My name: _____
(adult giving authorization)
4. My home address: _____

5. I am a grandparent, aunt, uncle, or other qualified relative of the minor (see back of this form for a definition of "qualified relative").
6. Check one or both (for example, if one parent was advised and the other cannot be located):
 I have advised the parent(s) or other person(s) having legal custody of the minor of my intent to authorize medical care, and have received no objection.
 I am unable to contact the parent(s) or other person(s) having legal custody of the minor at this time, to notify them of my intended authorization.
7. My date of birth: _____
8. My California driver's license or identification card number: _____

Warning: Do not sign this form if any of the statements above are incorrect, or you will be committing a crime punishable by a fine, imprisonment, or both.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: _____ Signed: _____

NOTICES

1. **This declaration does not affect the rights of the minor's parents or legal guardian regarding the care, custody, and control of the minor, and does not mean that the caregiver has legal custody of the minor.**
2. **A person who relies on this affidavit has no obligation to make any further inquiry or investigation.**
3. **This affidavit is not valid for more than one year after the date on which it is executed.**

Chapter Ten: Kinship Care

PR-E-LP-023

ADDITIONAL INFORMATION

TO CAREGIVERS:

- 1) "Qualified relative", for purposes of item 5, means a spouse, parent, stepparent, brother, sister, stepbrother, stepsister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin, or any person denoted by the prefix "grand" or "great" or the spouse of any of the persons specified in this definition, even after the marriage has been terminated by death or dissolution.
- 2) The law may require you, if you are not a relative or a currently licensed foster parent, to obtain a foster home license in order to care for a minor. If you have any questions, please contact your local department of social services.
- 3) If the minor stops living with you, you are required to notify any school, health care provider, or health care service plan to which you have given this affidavit.
- 4) If you do not have the information requested in item 8 (California driver's license or I.D.), provide another form of identification such as your social security number or Medi-Cal number.

TO SCHOOL OFFICIALS:

- 1) Section 48204 of the Education Code provides that this affidavit constitutes a sufficient basis for a determination of residency of the minor, without the requirement of a guardianship or other custody order, unless the school district determines from actual facts that the minor is not living with the caregiver.
- 2) The school district may require additional reasonable evidence that the caregiver lives at the address provided in item 4.

TO HEALTH CARE PROVIDERS AND HEALTH CARE SERVICE PLANS:

- 1) No person who acts in good faith reliance upon a caregiver's authorization affidavit to provide medical or dental care, without actual knowledge of facts contrary to those stated on the affidavit, is subject to criminal liability or to civil liability to any person, or is subject to professional disciplinary action, for such reliance if the applicable portions of the form are completed.
- 2) This affidavit does not confer dependency for health care coverage purposes.