CARING FOR ANOTHER PERSON’S CHILD
A Guide for Non-Parent Caregivers in California

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A Guide for Non-Parent Caregivers in California

This booklet was prepared by Public Counsel, with funding from the Annie E. Casey Foundation. Public Counsel is the nation’s largest pro bono law firm.

On the cover: Public Counsel helped Rocio Perez and Ruben Mendoza secure a guardianship for 8-year-old Valentina in 2012, so she can grow up with her sister Ilse and not in the Los Angeles foster care system. Public Counsel directs the Pro Se Guardianship Clinic at Stanley Mosk Courthouse in downtown Los Angeles, where our staff and pro bono volunteers assist hundreds of children and families each year. Public Counsel also promotes laws and policies that protect the rights of guardians.
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INTRODUCTION

This Guide is designed to give caregivers practical information about how to access government programs and community services, and to explore:

- The custodial options available to you for the child in your care, including informal care, foster care, legal guardianship and adoption;

- The financial resources available to provide for the child in your care, including cash assistance from CalWORKs (California Work Opportunities and Responsibility to Kids), foster care funding, adoption assistance program (AAP) benefits, child support, Supplemental Security Income (SSI) and other Social Security benefits;

- Government programs and community services providing health care, food, educational programs, housing and child care; and

- Information on what to do if you are treated unfairly or do not receive what you are entitled to by law.

Please pay special attention to the rules and policies that apply to the following special categories: children with disabilities, non-citizen or undocumented children, Native American children, terminally ill parents, incarcerated parents, deceased parents, and caregivers who are non-relative extended family members.

If you need legal advice about your particular situation, you should seek an individual consultation with an attorney. The information in this guide is based on federal law and the law of California.

OVERVIEW - WHO IS A CAREGIVER?

Thousands of children in California live with caregivers who are not their parents. Most often, those caregivers are the child’s relatives. But, caregivers can also be friends or neighbors.

Why do some children need caregivers?

The child’s parents may be in drug or alcohol treatment programs, in jail, deceased, deported, homeless or terminally ill. The parent may have lost custody because of child abuse, abandonment or neglect or the parent may be unwilling to care for the child. Family members who step in to care for children in these circumstances are called relative or kinship caregivers.

CAREGIVERS

Being a caregiver is extremely rewarding, but it can be challenging. Some caregivers need to quit their jobs or take a leave of absence to care for a child. Other caregivers have delayed
retirement plans or taken a new job to pay for additional expenses. Sometimes the family needs to move into a bigger home or purchase a larger vehicle. Caregivers can be mentally and physically exhausted by their caregiving responsibilities. In addition, these caregivers are forced to deal with whole new sets of issues:

Who can they call for financial help?

How can they register the child for school?

Where can they go for medical help?

No one is legally required to become a caregiver. However, if someone does not come forward to care for a child in need, that child may enter the foster care system.

The way you become a caregiver, whether informally or through the courts, will determine the custodial and financial options available to you. It is first important, however, to understand the rights and responsibilities of a parent so that you, as a caregiver, can better understand your own rights and responsibilities.

**The Rights of Parents**

Parents have many important rights that allow them to make crucial decisions for their children. Parents decide where the family will live and where the children will attend school. They also decide what religion the children will practice and make decisions regarding education and medical treatment for their children. In addition to these rights, parenthood also comes with many responsibilities. Parents are legally responsible to support their child and provide the basic necessities—food, clothing and shelter—until the child reaches the age of 18. Generally, we describe the parent’s rights and responsibilities as legal custody.

Unless a court order suspends or terminates the mother’s or father’s parental rights, the mother and father (if the father is on the birth certificate or has established paternity) have the ability to make decisions regarding their child, even if they had not previously lived with or cared for the child. For example, the parents can move the child to a different home, register the child in another school district, and prohibit the child from visiting with certain individuals.

**What might a court order do to change the rights of a parent?**

A court order may:

- give legal custody to either the mother or the father,
- appoint a non-parent as the legal guardian of the child,
- open a case in the Juvenile Court and give the county child welfare agency or probation department legal custody of the child, or
- terminate the mother’s and father’s parental rights and allow another person to become the child’s parent through adoption.

A parent’s legal custody of a child ends when the child reaches the age of 18, marries, joins the armed forces or when the child is emancipated by court order.

**Types of Caregivers**

In this guide we refer to four types of caregivers:

- **Informal Caregivers** are those who simply have taken responsibility for a child without involvement from the court system or other authorities. Informal caregivers have limited rights to make decisions regarding a child in their care because they do not have legal custody.

  **Example:**

  Mrs. Jones has cared for her three grandchildren since birth. Although Mrs. Jones’ daughter lives in the same city, she has not been financially or emotionally supportive of the children. Mrs. Jones has a notarized letter from her daughter allowing her to care for the children and consent to their medical care, but has not obtained legal custody through court. Mrs. Jones is an informal caregiver.

- **Legal Guardians** appointed by the Probate Court are awarded legal and physical custody of a child. Once the guardianship is granted, parents or other interested parties cannot terminate the guardianship without a court order.

  **Example:**

  Susan and Tom were killed in an automobile accident, leaving two minor children. Susan’s parents filed a petition for guardianship with the court requesting legal guardianship over the children so they could consent to medical care and otherwise care for them. The court granted their petition. Susan’s parents are legal guardians through the probate court.

- **Foster Caregivers** are those who care for a child who has been removed from the parents’ home due through a petition in juvenile court. The county child welfare agency or probation department has legal custody of the child, who is then placed in the care of an approved caregiver. Some of these caregivers obtain legal guardianship or become adoptive parents through the juvenile court.
Example:

Ms. Brown is raising her two godchildren. The children’s mother repeatedly left the children, ages 5 and 7, alone in her apartment. Neighbors reported the mother to the police and the child welfare agency removed the children from the mother’s home and placed them with Ms. Brown. Ms. Brown is an approved foster caregiver through the juvenile dependency court.

Example:

Antonio and his wife Sara are taking care of Antonio’s younger sister, Jenna, who is 14 years old. Jenna was arrested for robbery. After her release from juvenile hall, her probation officer recommended that Jenna be placed in “suitable placement” with Antonio and Sara because Jenna’s mother is an alcoholic and not providing adequate supervision for Jenna. Antonio and Sara are relative caregivers through the juvenile delinquency court.

- **Adoptive Parents** are those who have obtained an adoption order from a juvenile or family court, after the mother’s and father’s parental rights have been terminated. Adoption is permanent.

Example:

Claudia and Juan Escobar have been caring for their granddaughter, Elisa, since she was born. The child welfare agency placed Elisa in their care because she was born prenatally exposed to drugs. Elisa’s biological father was never identified and her mother’s parental rights were terminated because she did not complete drug treatment. At 18 months, Mr. and Mrs. Escobar adopted Elisa.

The monetary benefits available to caregivers differ depending on the type of caregiver that you are and the type of court, if any, that has approved the caregiving relationship.

When we discuss the type of caregiver relationship, we will also cover the financial and other benefits available to help you better understand the differences between the caregiving relationships and the options available to you. Also, please note that in some cases a child may be eligible for more than one form of financial assistance. If after reading this booklet, you are unsure about which type of benefit you qualify for, contact a legal service provider.
INFORMAL CAREGIVERS

WHO ARE INFORMAL CAREGIVERS?

An informal caregiver is a person who takes responsibility for a child without involvement from the court system, the child welfare agency, or other authorities. As a result, the informal caregiver but does not have legal custody of the child. This informal caregiving relationship may arise with or without the parents’ consent.

WHEN THE PARENT CONSENTS AND STAYS IN CONTACT

Example:

When Carol’s daughter, Tina, became pregnant at age 16, Carol and her husband took responsibility for the newborn infant and continued to care for him after Tina left home to go to college. Joey is now 11 and continues to live with his grandparents. Tina has finished her education and now has a job. Although she no longer lives at home, Tina is in close contact with Joey. Tina does not want to remove Joey from the home in which he has always lived. Tina has given her mother authority to make medical and educational decisions for Joey through a Child Care Authorization.

This informal custodial arrangement has worked well for Carol and her family. Although Carol and her husband are Joey’s primary caregivers, sometimes Tina has needed to make decisions regarding Joey. For instance, when Joey needed corrective eye surgery, the hospital would not accept Carol’s authorization to perform the surgery. Tina, as Joey’s legal parent, needed to make those arrangements. This problem was resolved because the child’s parent was available, cooperative and in communication with the caregiver.

If you are a caregiver and are in communication with and have cooperation from the child’s parent(s), then you may not need to apply for formal court custody. But it is a good idea to get the following documents from the child’s parent(s):

- child’s birth certificate,
- child’s Social Security card, and
- any medical records, especially immunization history

Having copies of these documents will make your role as caregiver easier.

Ask the parents to sign a letter giving you permission to care for and make medical and educational decisions for the child. This letter does not give you legal custody, or suspend or terminate the parent’s rights. However, it allows you to legally make certain decisions for the child. The letter should be signed by the parent(s) and the caregiver.
TIP:

We have included a sample Child Care Authorization in the Sample Forms section of this booklet on page 77. We recommend getting this document notarized to help ensure that doctors, school officials, and others will accept the document as valid. When a notary stamps the letter, it means that they are an authorized witness and that the signature on the document is legitimate. The fee to notarize a document is about $10.

WHEN THE PARENT OR PARENTS DO NOT CONSENT OR STAY IN CONTACT WITH THE INFORMAL CAREGIVER

Example:

Lisa is a drug addict who lived with her friend Pat. Also living with them was Lisa’s son, Nicholas. Nicholas’ father is unknown. When Nicholas was 3 years old, Lisa disappeared. It has been weeks since Pat heard from Lisa. Nicholas continues to live with Pat.

Pat has no documents from Lisa giving her permission to care for Nicholas. Nor does she have copies of Nicholas’ birth certificate or his Social Security card. Pat has only been able to obtain emergency medical care for Nicholas, and has had trouble enrolling Nicholas in preschool. Pat is also fearful that Lisa might return one day and take Nicholas away.

Pat’s situation is difficult. It may be in her and Nicholas’ best interest to consider a more formal caretaking arrangement, by becoming Nicholas’ foster parent, legal guardian or adoptive parent. However, even informal caregivers are able to make certain decisions and obtain some benefits for a child.

COMMON PROBLEMS

As a caregiver, have you faced any of these problems?

- You need more income to pay for living expenses and to support the child.
- The child does not have health insurance.
- You are told you cannot register the child for school or daycare.
- The doctor’s office requires legal guardianship papers to treat the child.
You don’t have copies of the child’s birth certificate or Social Security card.

If you answered yes to any of these situations, the following section will provide you with some resources to assist you.

**WHAT DECISIONS CAN INFORMAL CAREGIVERS MAKE FOR A CHILD?**

**EDUCATION**

**Enrolling a Child in School**

A caregiver, even if he or she is not a relative, can enroll a child in school.

**Using a Caregiver Affidavit**

Under California law, the Caregiver’s Authorization Affidavit enables a caregiver to enroll a child in school.

If you are related to the child, you may also consent to medical and dental treatment, including immunizations.

If you are unrelated to the child, you may only make school-related medical decisions, such as obtaining vaccinations and medical examinations required for school enrollment.

The form does not require the signature of a parent, but does require that you sign under oath that you have either informed the parent of your intent to authorize medical care for the child and have received no objection, or that you were unable to contact the parent. The Affidavit is a simple two-page form and a sample may be found in the “Sample Forms” section of this booklet on page 75. The Affidavit is signed under penalty of perjury and it is not necessary to have it notarized.
**Education Rights Under the McKinney-Vento Act**

The McKinney-Vento Act is a federal law that provides education rights to children who are “homeless”. The definition of “homeless” is broad enough to include many children in informal caregiver situations. Such children are entitled to be immediately enrolled in school, even if they do not have a legal address, school records, or immunizations. These children also have the right to stay in their original school and receive free transportation to and from school. They can also receive other assistance, such as emergency clothing, school supplies, and automatic enrollment in the free school lunch program.

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**TIP!!**

For more information on the McKinney-Vento Act please see the Children’s Rights Project Publication entitled “Education: California School Rights and Responsibilities with a Focus on Los Angeles Unified School District”, which is available on the Public Counsel website, www.publiccounsel.org.

Click on “Practice Areas,” then on “Children’s Rights Project, then on “Resources.”

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**Other Educational Decisions**

**Special Education**

Children who have disabilities can receive special education services. If the child you are caring for has difficulty in school, low grades, behavior problems, or is not making progress, the school can evaluate the child to see if they need special education services.

A non-parent caregiver **cannot** consent to an assessment or sign a child’s special education plan if the parent is still available to make such decisions. To be able to make decisions regarding a child’s special education needs, the caregiver must either obtain a written assignment of education rights by the parent, or be appointed by the school district as the educational “surrogate parent” for the child. The school can only appoint a surrogate if the school district is unable to locate the parents, after diligent efforts.

If the parents’ location is known but they are just unwilling to participate, the caregiver will need to obtain probate legal guardianship in order to make special education decisions for the child.
**TIP!!**

If you think you need to be appointed as the educational surrogate for a child who is in special education, tell the special education coordinator at your school immediately.

If a parent is willing to assign education rights to you, contact a legal services provider or the school district for assistance.

For more information on Special Education, please refer to the Public Counsel pamphlet “Special Education” available on the Public Counsel website at [www.publiccounsel.org](http://www.publiccounsel.org). Click on “Practice Areas,” then on “Children’s Rights Project, then on “Resources.”

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**Extracurricular Activities**

While the Caregiver Affidavit allows caregivers to enroll a child in school, it does not specifically give caregivers authority to consent to school extracurricular activities, such as participation in sports or field trips. School policies vary. If a school requires you to obtain a probate guardianship in order to consent to extracurricular activities, ask first to speak with the McKinney-Vento or Homeless Coordinator. All schools are required to have a McKinney-Vento or Homeless Coordinator. (Please refer to the Resources: Education section of this booklet).

If the Coordinator cannot assist you and a parent is not available, you will need to obtain a probate legal guardianship in order to consent to these activities.

**Daycare and Pre-school**

The Caregiver Affidavit does not specifically authorize you to enroll a child in daycare or pre-school. You will likely need to obtain probate legal guardianship to do so, but some daycare and pre-school programs may accept the Caregiver Affidavit.

**MEDICAL DECISIONS**

A caregiver who obtains a medical authorization from a parent can consent to medical care. In addition, a relative who uses a Caregiver Affidavit can consent to all medical care needed by a child. A non-relative using a Caregiver Affidavit can consent to school-related medical care. See page 75 for additional discussion on the Caregiver Affidavit.

**Emergency Treatment:** A child under 18 can receive emergency medical treatment without the consent of the parent.

**Minor Consent.** In some situations, children and teens can consent to their own medical care:
• **Pregnancy**: A child under 18 can consent to her own pregnancy-related medical care, including birth control, pregnancy testing, abortion, and prenatal care.

• **Treatment for Sexual Assault**, including Rape

• **Testing and Treatment for sexually transmitted diseases, including HIV; alcohol and drug treatment.** A child can consent to these if at least 12 years of age.

• **Mental health treatment**: A child at least 12 years of age can obtain mental health treatment counseling or residential shelter if he or she is mature enough to participate intelligently in the treatment and is either (1) a danger to self or others without the requested treatment, or (2) an alleged victim of incest or child abuse.

A minor can obtain **Minor Consent Medi-Cal** to cover the cost of the above services by applying at a health clinic or welfare office.


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**FINANCIAL ASSISTANCE**

Generally, a child cared for by a **relative** is eligible for monthly cash assistance from CalWORKs and medical coverage though Medi-Cal. If you are unsure whether you would be considered a relative, see the definition of “relative” in the “Glossary of Terms” section. If a caregiver does apply for CalWORKs benefits, the Child Support Services Department will often attempt to collect child support from the parents by garnishing (taking) their wages.

**Non-relative caregivers are not eligible for CalWORKs, but they may be eligible to receive other benefits (see the Other Benefits section below).** If you are a non-relative caregiver, you must obtain legal guardianship or become a foster parent before becoming eligible to apply for monthly cash aid (called AFDC-FC or state foster care). You can, however, obtain Medi-Cal for the child without a legal guardianship.

**CalWORKs**

Generally, a child being raised by a relative, regardless of the relative’s immigration status or income, is eligible for a “non-needy caregiver” monthly cash assistance payment from CalWORKs. If the relative is low-income and is a U.S. citizen or permanent legal resident, he or she may qualify for CalWORKs as well. (See the Other Benefits section at the back of this book.)
TIP!!
Please note that the monthly cash assistance from CalWORKs is less than the monthly cash assistance from foster care, and does not provide supplements for children with special needs. (See Foster Care section below.)

HEALTH CARE

HEALTH INSURANCE

Most health insurance companies will require that you obtain guardianship before allowing you to add a child to your health plan. However, a caregiver, whether related or unrelated, can apply for Medi-Cal for a child.

Medi–Cal

A caregiver, whether related or unrelated, can apply for Medi-Cal services for the child, without obtaining legal guardianship. A child receiving CalWORKs is automatically eligible for health coverage under the Medi-Cal program.

TIP!!
If your application for CalWORKs or Medi-Cal is denied, you have a right to appeal the denial. Call the Toll-Free Number 800-952-5253 once you receive your Notice of Action. You can also follow the directions on the back of the notice to submit a request in writing. Contact a legal service provider if you are denied CalWORKs or MediCal.

OTHER BENEFITS

SOCIAL SECURITY BENEFITS) and CAPI (Cash Assistance Program for Immigrants)

An informal caregiver may also apply to be the child’s representative payee for benefits from the Social Security Administration. These benefits can include:

- Supplemental Security Income (SSI), if the child is disabled (CAPI is a similar benefit provided by the state of California for immigrants with disabilities);
- Social Security Survivor’s Benefits, if the child’s parent(s) are deceased and have a sufficient work history; or

- Social Security Dependent’s Benefits, if the child’s parent(s) or grandparent(s) receive Social Security Retirement or Disability Benefits based on their work history.

**Note:** The child must be a United States Citizen or be a Legal Permanent Resident or other qualified immigrant to receive CalWORKs, full-scope Medi-Cal and Social Security benefits. Some examples of a qualified immigrant are children who are refugees or asylees, permanently residing in the US under color of law, or victims of trafficking, or abuse by a U.S. citizen parent or step-parent. If you are not sure if the child is a qualified immigrant, please contact a legal services provider.

**OBTAINING FORMAL CUSTODY**

Many informal caregivers reach a point when a more formal custody arrangement becomes necessary. A formal custody arrangement can be obtained through two very different court systems called probate and juvenile (which includes dependency and delinquency). Adoption is a third alternative.

**PROBATE COURT LEGAL GUARDIANSHIP**

**Example:**

Michael has cared for his grandson, Charles, since Charles was 11 years old. Charles is now a freshman in high school and is a member of the school band. In order for Charles to travel with the band to the regional competition this year, the school requires written permission from a parent or legal guardian. No one in the family has heard from Charles’ parents for years. Michael has never had any problems before but was told to call a lawyer to get legal guardianship.

This section will explain the process for obtaining custody through probate court. Probate court can grant custody orders—called guardianships—to non-parents. Unlike adoption, guardianship does not terminate the child’s parental rights but merely suspends them by taking away the parent’s custody while the guardianship is in place.

Before deciding to pursue a probate court legal guardianship, review the sections on Dependency and Adoption. In certain circumstances, you can request that a juvenile court case
be filed and the child be placed in your home by the child welfare agency. It is important to make a careful decision. A probate guardianship may be the right solution to keep the child safe and stable in your home without the need for juvenile court involvement, but in some cases it may be better for the child welfare agency to file a case and place the child with you. A probate court legal guardianship will not make you eligible for services from the child welfare agency, and your financial benefits may be lower.

**THE PROBATE GUARDIANSHIP COURT PROCESS**

A non-parent who is caring for a child can apply for custody (guardianship) through probate court. The process of obtaining legal guardianship through probate court involves completing a packet of forms, filing them in court, having an investigation, notifying family members, and going to at least one court hearing. The entire process can be completed in as little as six weeks. The court charges a fee to file the papers for the legal guardianship. If you are low-income, you can apply for a fee waiver; if this is granted, you can file the guardianship petition for free.

Probate court legal guardianship can be granted with or without the parents’ consent or cooperation. A parent who consents to the guardianship can sign a guardianship nomination/consent.

Even if the parent does not consent to the guardianship, the guardianship may still be granted. However, the person who requests the guardianship must serve the parent with a copy of the guardianship petition and information on the time, date, and place of the court hearing. The child’s grandparents and siblings must also be notified or consent to the guardianship.

After the guardianship petition is filed, the child’s placement with the proposed guardian will be evaluated either by the court investigator, or by the county child welfare agency. The investigation process is different in each county, but may include a home visit, a criminal background check of all adults in the household, an interview with the proposed guardian and the child (if old enough), and a review of the child’s medical and educational records. The information is used to prepare a report and recommendation to the judge. The report is confidential but the proposed guardian and parents can request a copy of it. If the investigation uncovers potential issues of abuse, abandonment, or neglect by the proposed guardian, the investigator or social worker may make a child abuse referral and a case may be opened in dependency court.

A parent or other interested person can object to the guardianship, either by filing a written document or by coming to the court hearing. The investigator will likely interview any person who objects and include this information in their report.

If a parent objects, the guardianship is a “contested guardianship.” The court may, in these cases, appoint an attorney to represent the interests of the child.
If the child in your care has financial assets (like a life insurance policy, trust fund, etc.) you may also be required to apply for guardianship of the estate. This will require additional record keeping and reporting.

JOINT PROBATE GUARDIANSHIPS

If you are caring for a child with a terminally ill parent, you can petition the court to become a joint guardian with the child's parent. Through this process, the terminally ill parent will continue to have custody of the child. However, you will have joint custody and be able to make decisions and care for the child if the parent is too sick to do so or passes away.

GUARDIANS’ RIGHTS AND RESPONSIBILITIES

Once the guardianship is approved by the court, the caregiver is called a “guardian.” The guardian has legal custody of the child, and makes decisions about education, health care, and about where the child goes to school, who the child may visit, etc. The child’s parents cannot take the child without the guardian’s permission.

However, a guardianship does not terminate parental rights, and a parent can petition the court to end the guardianship and get the child back. Also, a parent or other interested person can petition to transfer the guardianship to another person, or to have formal visits with the child. Also, although the guardian decides where will live, the guardian must notify the court of any change of address and get court approval before moving to a different state. The guardian will be required to apply for guardianship in the new state.

PUBLIC BENEFITS (FINANCIAL ASSISTANCE) FOR PROBATE COURT LEGAL GUARDIANSHIP

The parent of a child in a legal guardianship remains financially responsible for the child. A parent and guardian can work out an informal child support arrangement without involving any government agencies.

Or, the guardian can receive child support payments through the Child Support Services Department. The guardian can also apply for other types of government financial assistance for the child, which may be higher (or lower) than child support payments, depending on the parents’ income. If the guardian does apply for these benefits, the Child Support Services Department will often attempt to collect child support from the parents by garnishing (taking) their wages. Below is information on types of financial assistance, and how to apply.
RELATED GUARDIANS

A related legal guardian is eligible to receive the same benefits as an informal relative caregiver, as discussed above, including:

- Monthly cash assistance payment from CalWORKs,
- Healthcare coverage through Medi-Cal.

In order to qualify, the child must be a U.S. citizen, permanent resident, or other qualified immigrant.

Please refer to the Informal Caregiver- Financial Assistance and Health Care Sections above for additional information on CalWORKs and Medi-Cal.

UNRELATED LEGAL GUARDIANS

An unrelated legal guardian can receive:

- A monthly cash payment through the state foster care program, depending on the circumstances. This may include eligibility for higher foster care rates for children with special needs, depending on the county child welfare agency’s specialized rate policy. Foster care benefits continue until the child turns 18, or up to age 19 if the youth will graduate by age 19 or has a disability. Unrelated legal guardians through probate court are not eligible for extended foster care benefits under AB 12. (See the section on foster care for more information).

- Healthcare coverage through Medi-Cal

- The child must be a U.S. citizen, resident, or qualified immigrant. For information on benefits for undocumented children below.

To apply for state foster care benefits, an unrelated legal guardian should call the county child welfare agency, and explain that he or she is an unrelated guardian appointed through the probate court and wants to apply for foster care benefits for the child. It is important to call as soon as you obtain temporary or permanent guardianship, because the benefits will be paid retroactively from the date that you first called and asked for them.

TIP!!

Unrelated legal guardians should not be required to undergo additional home approvals (other than the home inspection required in the guardianship case) in order to obtain foster care benefits. If you are denied benefits, contact a legal services provider and/or request a hearing by calling (800) 952-8349.
OTHER BENEFITS

As with informal caregivers, probate court legal guardians (whether related or unrelated) can become the payee for SSI, Social Security Disability, Survivor's, and other benefits on behalf of the child.

DEPENDENCY COURT (FOSTER CARE)

Example 1: Thurston’s first grade teacher noticed bruises on both of his legs. As a teacher, Ms. Kay is required by law to report suspected abuse. A child welfare agency social worker investigated the report and removed Thurston from his father’s home. The social worker contacted Thurston’s grandmother to see if she would care for the child.

Example 2: Jonathan’s 20-year-old son, Robert, is a cocaine user. Sometimes, Robert and his girlfriend, Sherrie, will leave their 2-year-old daughter, Erin, with their babysitter for a long time. The babysitter contacted Jonathan and asked him to pick up Erin because Robert and Sherrie left Erin with her for two days. Jonathan is considering contacting the child welfare agency about his granddaughter.

HOW KIDS GET PLACED IN THE FOSTER CARE SYSTEM

CHILD ABUSE REFERRAL

Any person who suspects that a child is abused, neglected, or abandoned by his or her parents can call the child abuse hotline. Some professionals, such as teachers, health care workers, and police officers, are mandated reporters and are required to make a report if they suspect child abuse. For example, a referral may be made at birth if the baby is born with drugs in her system. Once a call is made, a social worker from the county child welfare agency is sent to child’s home to investigate. Social workers are available 24 hours a day, 7 days a week, to protect children in dangerous situations.

The child welfare agency may decide one of three things: (1) no action is needed, (2) the family should be offered voluntary services, or (3) the child is at risk of abuse or neglect and should be removed from home.
POSSIBLE OUTCOME # 1: AGENCY DECIDES CHILD IS NOT AT RISK

Example:

Daniel’s parents were arrested for robbery. Daniel’s great-aunt Nelda was present at the time of the arrest, and his parents asked Nelda to take Daniel. The police called the hotline. A social worker asked Nelda if she would be able to care for Daniel. The social worker went to Nelda’s home and determined that she was a suitable caregiver and that the parent’s plan for the care of Daniel was appropriate. The social worker told Nelda she could get probate guardianship of Daniel.

The child welfare agency may decide there is no need to take any action. This may be because they were not able to find any evidence of abuse or neglect. Or, they may find that even though the parent is unable to care for the child, the parent has made an appropriate plan for the child’s care by asking a responsible relative or friend to care for their child.

In some cases, you may want the child welfare agency to take action – for example if you are worried that the parents will try to take the child back, or you need more financial support than is available from CalWORKs to care for the child. In this situation, the first step is to talk to the child welfare agency social worker about your concerns. If the agency does not take action, you can file a form stating that the child is at risk of abuse or neglect, and asking the agency to file a petition in dependency court. This form is called “Application to Commence Proceeding by Affidavit and Decision by Social Worker (JV-210).” If the agency still does not take action, you can file another form asking the juvenile court to review the agency’s decision. This form is called an “Application to Review Decision by Social Worker Not to Commence Proceedings (JV-215).” Both forms are available online at [http://www.courtinfo.ca.gov](http://www.courtinfo.ca.gov).
TIP!

Sometimes when the county child welfare agency is investigating a report of abuse or neglect, and there is a relative who is willing to care for the child, the social worker will tell the relative to get probate guardianship to “keep the child out of the system.”

If this happens, you may want to contact a legal services provider to discuss whether to get a probation guardianship, or request that the child be placed with you through the foster care system instead.

Many families want to keep children out of the system. But benefits and services are available through the foster care system that are not available to informal caregivers, probate court legal guardians or adoptive parents of a child who is not in foster care.

It is often a hard decision whether to seek probate guardianship, or request that the child be placed with you through the foster care system, because once a foster care case is filed, the family is no longer in control. There will be ongoing supervision by a social worker and court hearings. There is a risk that the child welfare agency and the juvenile court will not place the child with you, but with a different relative or in a non-relative foster home or group home. However, if the child in your care has a disability or special needs, is an older teen, or is undocumented, you may want to consider this option because more financial benefits and supports may be available to you and the child, through the foster care system.

POSSIBLE OUTCOME #2: FAMILY PRESERVATION SERVICES

If the child welfare agency’s investigation finds that the child is at risk of abuse or neglect, the agency must determine if the child can be protected by providing the family with voluntary services. For example, the social worker can help the parent get health care for the child, refer the parent to parenting classes, etc.

The social worker can provide these services while the child stays in the parent’s home. But if the social worker believes it would not be safe for the child to stay with the parent, the social worker can ask the parent to voluntarily place the child in the home of a relative or foster parent while the parent completes necessary programs or classes. These conditions can be put into a Voluntary Placement Agreement (VPA), which the parent must agree to and sign.

If the parent does not agree to and sign the VPA, and the agency still thinks the child is at risk, the agency must file a court case to legally remove the child from the parent’s custody. See Possible Outcome #3 below.

If the parent and social worker agree to a VPA, the parent is given up to six months to resolve the problems that put the child at risk of abuse or neglect. At the end of this time, if the
social worker finds that the parent complied with the plan and the child is safe, the social worker will close the case. If not, the social worker will file a case in juvenile court and remove the child from the parent’s custody.

**TIP!**

A relative or non-relative caring for a child under a VPA is entitled to receive CalWORKs or foster care benefits. If you are a caregiver though a VPA, it is very important that the VPA not last more than 180 days (6 months), or the child will lose eligibility for federal foster care funding. If a child has been in your home under a VPA for 5 months or more, contact the child welfare agency social worker to make sure the child is either returned to the parent’s home, or a court case is filed, before the end of 180 days.

**POSSIBLE OUTCOME #3: CHILD WELCARE AGENCY OPENS A DEPENDENCY COURT CASE**

If, after investigating a report of child abuse or neglect, the child welfare agency finds that the only way to protect the child from abuse or neglect is to remove the child from the parents’ home, the agency will file a dependency court case. Once this happens, any other custody proceedings involving the child are stopped. You cannot get guardianship of the child in probate court. Nor can a parent get a custody order through the family court. All custody decisions regarding the child must be made by the dependency court.

**WHAT IS THE JUVENILE COURT DEPENDENCY PROCESS?**

When a child is removed from the parents’ custody for abuse or neglect, the county child welfare agency must file a petition with the juvenile dependency court within 48 hours stating the allegations of abuse or neglect. Once the petition is filed, a series of court hearings are held. The first hearing must occur within one court day after the petition is filed. The court must determine whether the child is “at risk” and needs to be removed from the parent’s home.

In most cases, the child’s parents will receive family reunification services. This includes referrals to programs such as parenting classes, drug rehabilitation and counseling, to assist the parent in dealing with the issues that led to removal of the child. Family reunification also includes parent-child visitation, unless it is unsafe for the child. In some cases, the parents may not get reunification services, and the court may decide right away on a permanent placement for the child, for example when: (1) the parents cannot be located; (2) the child has a sibling who was already removed from the parents due to abuse; (3) the parent has been convicted of a violent felony. Parents who are incarcerated, institutionalized, or have been detailed or deported
by ICE receive reunification services unless the court finds that such services would be detrimental to the child.

In dependency hearings, separate attorneys represent the mother, the father, the child and the county agency. Children in foster care also have a social worker and may have a Court Appointed Special Advocate (CASA). The social worker must visit the child once every month and write a court report before every court hearing.

The court will give the parents a certain period of time to complete the reunification requirements. The case is reviewed at least every six months. At each review hearing, the county agency must either return the child to the parents, or prove that it would be unsafe to do so. This can take between six months and two years, depending on the age of the child and the parents’ situation. If the parents do not complete the reunification requirements, the court will make a permanent plan for the child, usually adoption or legal guardianship.
**BECOMING A CAREGIVER THROUGH DEPENDENCY COURT**

After removing a child from the parent’s home, the county child agency must find a safe and appropriate placement for the child. The agency must give preference first to close relatives, including grandparents, aunts, uncles, and adult siblings, and second to other relatives and “non-relative extended family members” (NREFMs) such as godparents and family friends.

A “relative” means anyone related by blood, marriage or adoption who is within the 5th degree of kinship to the child. A NREFM is an adult caregiver who has established a familial or mentoring relationship with the child or the parent. Relatives’ and NREFMs’ homes must be approved by the county child welfare agency, but they do not need to obtain a foster care license.

**TIP!**

Within 30 days of a child being removed from the care of a parent, social workers (and probation officers) must investigate to find relatives of the child and inform them that the child has been removed from the parents’ custody. The social worker must provide relatives with written information about how the child can be placed in the relative’s home, how the relative can visit with the child, and the types of services and benefits available to relative caregivers. If you receive a letter from a social worker regarding a child, you can contact the social worker to request that the child be placed with you or to provide information about the child.

If you are aware of a child who has been removed from his or her home and you want to care for this child but have not been contacted by a social worker, you should immediately call the county child welfare agency’s public information line. Tell them you want to care for the child and you need the name and phone number of the child’s social worker. Be prepared to provide the name, address and age of the child, and the child’s parents.

**HOW THE COUNTY CHILD WELFARE AGENCY APPROVES CAREGIVERS**

Relative caregivers and NREFMs must have their homes “approved” by the county child welfare agency before a child can be placed with them.

The requirements for “approval” have three major areas: criminal and child abuse records check; caregiver qualifications; and safety of the home environment.

- A criminal records and child abuse records check is required for all adults who live in the home or will have substantial contact with the child.
The agency cannot place a child in a home where any adult has a criminal conviction, unless the agency grants an “exemption” or waiver of the conviction. Whether an exemption can be granted depends on how serious the crime was, how long ago it occurred, and how many convictions there are.

- Exemptions are only needed for criminal convictions, not arrests or child abuse reports, but the agency does consider any history of arrests or child/abuse neglect reports is considered along with all other factors in deciding whether the home is safe and appropriate for the child.

- Caregiver qualifications, ability to provide care and supervision for the child, and meet the child’s needs; and

- A home that meets the same standards required for licensed foster homes, and is clean and safe (for example, medications, poisons and weapons are safety stored).

The agency must investigate all adults in the home, and complete criminal background and child abuse checks,

Example:

John entered foster care. The county child welfare agency needs to decide if John can be placed with his uncle Jack. Thirty years ago, Jack was arrested for burglary but was never charged or convicted. Twenty years ago, Jack was convicted of driving under the influence. Although the agency must look at all aspects of Jack’s past when determining whether the placement is safe and appropriate, the agency only needs to grant an exemption for the DUI conviction.

TIP!

The county child welfare agency must make every effort to place the child with a relative or close family friend. If you are a relative or close family friend and your home is not approved because of something that can be fixed—for example, a broken lock, or the need for additional beds or smoke detectors—the agency should help you fix those problems.

The child can be placed in your home on an emergency/temporary basis while your home approval is pending as long as you have no criminal convictions.

If your home is not approved, the agency is required to notify you in writing. This notice must include information on the grievance review procedure and your right to challenge the decision. You have 10 working days to request a hearing from the time you became aware of the decision not to approve your home. If a social worker tells you your home was not approved, ask for a written notice!
Relatives or family friends who already have a foster care license or certification can have the child be placed with them under their foster care license or certification. They do not need to go through an additional home approval process.

Relatives and NREFMs are not required to take the classes required for licensed foster parents, but you may find it helpful to take a parenting course designed for kinship caregivers, and/or attend a kinship care support group. Ask the agency social worker about classes and other resources for kinship caregivers.

DEPENDENCY COURT PROCESS

As a child’s relative or non-relative foster parent, you will not have a lawyer appointed to represent you. It is important for the judge and the other attorneys to hear from you about how the child is doing, and any problems or unmet needs, so you should try to attend all court hearings. The social worker is required to send you written notice of court hearings. At or before each hearing, you can fill out a Caregiver Information Form to give the court information about the child’s health, education, and any problems or special needs. You can get these forms from the court clerk, or online at www.courtinfo.ca.gov/forms

If you have been caring for a child for six months or more, you may want to consider applying for “de facto parent” status. A de facto parent is a person found by the court to have taken on the role of a parent on a day to day basis, meeting the child’s needs for care and supervision for a substantial period of time. If you are granted de facto parent status, you will be allowed to participate in court hearings, and the court may appoint an attorney for you.
TIP!!

As a relative or nonrelative foster parent, it is a good idea to keep all court forms and notices in a folder, along with other important documents such as the child’s birth certificate, Social Security card, health, dental and education records.

You may also want to keep a notebook with names and contact information for the child’s social worker, attorney, doctor, therapist, and anyone else involved in the child’s care, and a calendar or appointment book to keep track of court hearings, social worker visits, parental and sibling visits, doctor, dentist, and therapy appointments, etc.

It is also a good idea to keep a record of all conversations with the child’s social worker, attorneys, and parent(s).

CHILD WELFARE AGENCY RESOURCES

There are a variety of resources that may be available to relative and non-relative foster parents, for both children and caregivers. These resources are not available to informal caregivers or guardians appointed through probate court.

These resources include:

- Child care for foster parents who are working or in school;
- Respite care in times of crisis or when temporary child care is needed, such as when a caregiver is hospitalized or there is a death in the family.
- Clothing allowance for children receiving foster care benefits;
- Independent Living Program (ILP) program for foster children 14 and older, providing information, resources and support to help them graduate from high school and go on to college and careers, including:
  - Money to pay for books and other education expenses, including financial aid for college
  - Money to pay for car insurance
  - Transitional housing programs
  - Classes and other programs to help teens prepare to live on their own
There are many other benefits available through ILP, see the “Other Benefits” section in the back of this booklet for more information.

**BENEFITS FOR CAREGIVERS IN THE FOSTER CARE SYSTEM**

All relative and non-relative foster parents are entitled to receive some kind of financial assistance. The type of financial assistance you receive depends on several factors, including your relationship to the child (related or unrelated), the age of the child and whether the child has any special needs, the child’s immigration status, and the number of children you are caring for.

**TIP!!**

Related and unrelated foster parents of undocumented children in foster care may be eligible for county-funded foster care payments.

Legal guardians through probate court are not eligible for any financial assistance for undocumented children. However, they are eligible for other government programs, and they may also be eligible for certain immigration benefits. Please refer to the “Special Cases” and “Undocumented Children” sections in the back of this booklet for additional information.

**Foster Care Benefits**

Foster care benefits are monthly payments given to caregivers of children in the foster care system. All non-relative caregivers (including NREFMs) receive foster care benefits. Only some relative caregivers, however, can receive foster care benefits. So, if you are distantly related to a child (such as a second cousin, or a step-relative other than a step-parent or step-sibling), it is important that you are correctly identified as a NREFM rather than a relative caregiver. Also, even if you are a relative, if parental rights are terminated you will be considered a non-relative.

Some relative caregivers can receive federally-funded foster care benefits. In order to qualify, the child must have been eligible for a certain kind of welfare benefit at the time the child was removed from the parents’ home. The amount of the monthly foster care benefits for a child is based on the child’s age and whether the child has emotional, behavioral, medical or developmental problems or special needs.
TIP!!

If you believe that you were inappropriately denied foster care benefits, or are not getting the appropriate rate, contact the child’s attorney or a legal service provider as soon as possible. If you were denied benefits, you must file your appeal within 90 days to obtain benefits back to the time that the child was placed with you. If you request the hearing after 90 days, you will only obtain benefits from the time that you request the hearing.

Extended Foster Care

Foster youth ages 18-21 can continue to receive foster care benefits if they meet certain participation requirements.

Relative and non-relative caregivers can receive Extended Foster Care benefits for youth who remain in (or return to) their homes after age 18 and meet these requirements.

Relatives who are legal guardians receiving Kin-GAP benefits can only receive Extended Foster Care benefits if the young adult turned 16 before the guardianship was granted and the Kin-GAP payments began. Non-relative legal guardians can receive Extended Foster Care benefits regardless of when the guardianship was granted by a juvenile court.

Adoptive Parents can receive Extended Foster Care benefits if the adoption was finalized and the AAP agreement was signed when the child was 16 or older.

Participation Requirements: The young adult must meet one of the following participation requirements to receive Extended Foster Care benefits:

- Completing high school or an equivalent program (i.e. GED); OR
- Enrolled in college, community college or a vocational education program; OR
- Participating in a program designed to remove barriers to employment; OR
- Employed at least 80 hours a month; OR
- Unable to do one of the above requirements because of a medical condition.

For additional information on AB 12, please go to www.cafosteringconnections.org.
TIP!

AB 12 allows youth in foster care to reside in a Supervised Independent Living Placement (SILP). This can include a college dorm, their own apartment, or renting a room from a relative or friend. In a SILP, the youth will usually receive the foster care payment directly and is responsible to pay for his/her own rent and living expenses. The youth’s social worker or probation officer must agree that the youth is ready to live in a SILP and the home must pass a yearly health and safety inspection—but does not need to meet foster care licensing inspection standards.

The home of a relative or family friend can become a SILP. However, SILP placements are not eligible for specialized care rates- the youth will only receive the basic foster care payment amount. Because in a SILP placement, the youth receives the foster care payment directly, it is a good idea for the youth and caregiver to discuss and sign a shared living agreement before the caregiver’s home becomes a SILP placement. A sample shared living agreement can be found at www.cafosteringconnections.org.

NOTE: Youth who continue to receive Kin-GAP benefits, foster care payments under a non-related legal guardianship or AAP are not eligible to live in SILPs.

CalWORKs

Relative foster parents of children who are not eligible for federal foster care benefits can receive CalWORKs if the child is a legal permanent resident, U.S. citizen, or other qualified immigrant. Unfortunately, the monthly cash assistance from CalWORKs is less than the monthly cash assistance from foster care benefits, and does not provide extra money for children with special needs.

Relative caregivers can receive “non-needy caregiver” CalWORKs benefits for the child, regardless of their own income, or can apply for CalWORKs themselves as well if they are low-income.

CalWORKs benefits continue until the child is 18, or up to age 19 if the youth will graduate from high school by age 19 or has a disability.

Contact the social worker assigned to your child or the county welfare department to complete a CalWORKs application. You may be eligible to receive CalWORKs benefits from the date the juvenile court placed the child in your home, even if you wait until later to apply for CalWORKs.
HEALTH CARE: MEDI-CAL

Children in foster care receiving CalWORKs, foster care benefits, or SSI are eligible to receive full medical coverage through Medi-Cal. Young adults who were in foster care at the age of 18 can receive Medi-Cal until the age of 26. Undocumented children are not eligible for full-scope Medi-Cal; however, they can receive emergency Medi-Cal and some other health benefits (see the section on Special Cases/Undocumented Children below). The county child welfare agency is responsible for taking care of medical needs of foster children even if they are not eligible for Medi-Cal.

TIP!
If the child has special needs that are not being met through Medi-Cal, additional resources should be available from the county child welfare agency. Contact the child’s social worker or attorney or a kinship resource center for help.

OTHER BENEFITS

In addition to the benefits discussed above, the child in your care may be eligible for additional benefits discussed in the section entitled Other Benefits on page 42.

DEPENDENCY COURT OUTCOMES

The county child welfare agency’s primary goal is the safety of the child. The agency will try to reunify the child with the parent(s) whenever possible. If the child cannot be returned home safely, then the agency will ask the court to make a permanent plan for the child.

The court will consider the following three permanent plan options, in order of preference:

- Adoption;
- Guardianship;
- Another Planned Permanent Living Arrangement (such as long-term foster care)
DEPENDENCY COURT AGENCY ADOPTION

Adoption is the preferred permanency option in dependency court. Adoption establishes a permanent, life-long relationship of parent and child, creating rights and responsibilities equal to a biological parent-child relationship, including rights of inheritance. It is a legal process initiated after parental rights are terminated by a court, or voluntarily relinquished by the parents. Once parental rights are terminated, the court gives legal custody of the child to the county child welfare agency or a licensed adoption agency, and the agency places the child in a pre-adoptive home.

The child must have lived in the home of the prospective adoptive parent for at least six months under the supervision of a social worker before the adoption could go forward. A caregiver who is approved to adopt after passing a home study by the social worker may then go before a judge to grant the adoption.

Although adoption is the preferred permanent plan for a foster child, a court can grant legal guardianship instead, if a relative caregiver prefers legal guardianship to adoption for reasons that do not show a lack of permanent commitment to the child. The court may also allow non-relatives to opt for legal guardianship instead of adoption, but only in extraordinary circumstances.

TIP!!

In California, a single person or a non-married couple may adopt – even a biological grandmother and aunt may adopt together (or other combinations of relatives).

But, if you were married and are not currently living with your spouse, you must show proof that your spouse died, or that you either divorced your spouse or obtained his/her written permission to adopt, with some very narrow exceptions. Therefore, if you are still legally married (even though you are separated) you should consider obtaining a divorce, or written permission to adopt from your spouse, before starting the adoption home-study process.

BENEFITS FOR CAREGIVERS UNDER AGENCY ADOPTIONS

Adoption Assistance Program (AAP): The Adoption Assistance Program (AAP) was designed to help caregivers to adopt children from the foster care system. Under AAP, an adopted child can continue to receive financial benefits after the juvenile court case is closed.

The AAP payment will replace the foster care payment. The AAP payment is a negotiated amount based on the child’s age and needs and the ability of the family to meet those needs. Children receiving AAP are eligible for the same higher specialized rates as children receiving foster care benefits, including the “D” rate for children with certain medical needs, the “F” rate
for children with emotional or behavioral needs, and the “dual agency” rate and supplement for children who are developmentally disabled and a client of the Regional Center. Adoptive parents can receive these specialized rates even if they were previously receiving only the basic foster care rate or CalWORKs. AAP benefits will continue even if the adoptive parents move to a different county, state, or country.

The AAP agreement must be reviewed and any specialized rate recertified every two years. The AAP rate will never go below the basic foster care rate. Unlike foster care payments though, children whose initial AAP agreements were signed on or after January 1, 2010 will no longer be eligible to receive age-related increases. However, an annual cost of living adjustment will be provided. The adoptive parents will continue to receive AAP payments until the child turns 18. Benefits can continue until the youth turns 21 if the youth has a documented mental or physical disability, or, under the Extended Foster Care program (AB 12), if the first AAP agreement was signed when the youth was 16 years or older and the youth meets the participation criteria. However, to receive these benefits, the adoptive parent must make the request and verify that the child meets the participation requirements.

If you are an adoptive parent of a child who may be eligible to continue receiving benefits after age 18, contact the county child welfare agency before the child turns 18 to request these benefits.

**Health Care-Medi-Cal:** A foster child who is adopted will continue to be eligible for Medi-Cal as long as the child is eligible for AAP. If the child moves to a different state, the child may or may not be eligible for Medicaid in the new state; the family may need to contact a legal services provider for help in obtaining health insurance coverage for the child in the new state.

If an adoptive parent has private insurance, the child should be placed on the insurance plan as a dependent and still have Medi-Cal available as a secondary insurer.

**DCFS Resources:** Shortly after an adoption is finalized, the juvenile court case and the county child welfare agency case will be closed. If adoptive parents have questions, concerns, or require referrals or assistance after the case is closed, they should contact the county child welfare agency and ask about Post-Adoption Services. Also, if the child was 16 or older when adopted, the child is eligible for Independent Living Program (ILP) services from the child welfare agency even after the case is closed.

The county child welfare agency’s Post-Adoption Services program may be able to:

- Help adoptive families with Adoption Assistance Program (AAP) reassessments for an increase in their AAP benefits.
- Provide adoptive parent support groups and individual support social workers.
- Provide referrals to community resources for adoptive families.
DEPENDENCY COURT LEGAL GUARDIANSHIP

If the court finds that adoption is not in a child’s best interest, or if a relative caregiver prefers legal guardianship instead of adoption, for reasons that do not show a lack of permanent commitment to the child, then the court can order legal guardianship as the permanent plan for a child. The court will usually close its case after the guardianship is granted, but in some cases it may be beneficial for you to request that the court case remain open.

Legal guardianship gives the caregiver custody of the child, without terminating parental rights. The parents can attempt to regain custody of their child later by filing a petition in dependency court. The parents must show there is a change in circumstances that warrants a change in the custody order, and that such a change would be in the child’s best interest.
**TIP!!**

If you were awarded legal guardianship of a child through the foster care system, you must return to dependency court to change the order (for example, to add a co-guardian, transfer the guardianship to another person, or to return the child to the parent’s custody). You must show that this change in placement is in the child’s best interest. Use form JV-180 (request to change court order).

**IMPORTANT:** If you are a relative guardian receiving federally-funded Kin-GAP, a petition to reopen the dependency case—either by you or another person, such as the child’s parent—will cause Kin-GAP funding to be cut off. Contact a legal services provider for assistance with this situation.

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**BENEFITS FOR DEPENDENCY COURT LEGAL GUARDIANSHIP**

**KIN-GAP**

In California, a program called the Kinship Guardianship Assistance Program (Kin-GAP) is available to relative caregivers in the foster care system.

Under the Kin-GAP program, the relative caregiver becomes the child’s legal guardian and the dependency court terminates its jurisdiction over the child. The program allows the relative caregiver to continue to receive monthly cash assistance for the child. The county child welfare agency will close its case, and the child will no longer be visited by a social worker. However, services for the legal guardian and the child may still be available from kinship resource centers and community-based programs. Caregivers who become legal guardians can begin receiving Kin-GAP payments after the child has been in their care for at least 6 months.

**Kin-GAP Cash Assistance:** The Kin-GAP payment will be equal to the foster care rate that the child was receiving when the court closed the case. If the child was receiving D or F rate foster care benefits, the child will receive Kin-GAP at the same rate. In addition, children who are developmentally disabled and who are clients of the Regional Center can also receive a higher “dual agency” rate and “supplement” through Kin-GAP. The Kin-GAP rate can be negotiated and adjusted periodically based on the child’s needs. This can be done at the scheduled Kin-GAP re-assessment, or by special request beforehand.

Benefits can continue up to age 18, and up to age 19 if the youth is still in high school, attending certain vocational programs, or completing a GED and expected to complete the program by their 19th birthday. Benefits may also extend until the youth’s 21st birthday if the youth has a physical or mental disability or under Extended Foster Care (AB 12) if the youth...
began receiving Kin-GAP payments on or after his/her 16th birthday and the youth meets the participation criteria. In order to receive benefits past the age of 18, the youth must sign a mutual agreement before or in the month of the youth’s 18th birthday.

Caregivers can continue to receive Kin-GAP if they move to another county or state, but the rate may change if they move to another state. Contact a legal services provider for help in determining how a move will affect Kin-GAP benefits.

**Health Care–Medi-Cal:** A child will continue to be eligible for Medi-Cal as long as the child is eligible for Kin-GAP. Eligibility for Medi-Cal can continue past the child’s 18th birthday, until age 21 if the child is in school.

**Independent Living Program.** Beginning at age 16, a child in a legal guardianship under Kin-GAP can begin receiving Independent Living Program (ILP) services. ILP services are available to Kin-GAP youth regardless of when their dependency court case was closed. However, youth will not be eligible for the Chafee grant, which provides up to $5,000 a year for career and technical training or college, unless their court case was closed after the age of 16.

**TIP!!**

A related legal guardian can receive Kin-GAP even if he or she was not receiving foster care benefits, and was only receiving CalWORKs, or no funding at all. In these cases, the Kin-GAP rate will be equal to the basic foster care rate. The caregiver cannot receive any specialized “D”, “F” or dual agency rates.

**FOSTER CARE BENEFITS**

Non-relatives do not qualify for Kin-GAP. Non-relative legal guardians will continue to receive the foster care rate they were receiving as foster parents.

**Foster Care Benefits:** Non-relative legal guardians though dependency court will continue to receive foster care benefits, including specialized “D”, “F”, and “dual agency” rates and supplements for children who qualify. Benefits continue to age 18, but can continue up to age 19 if the youth is in high school, attending some vocational programs, or pursuing a GED, and expected to complete the program by their 19th birthday. Benefits may also extend to young adults 18-21, if Extended Foster Care (AB-12) participation requirements are met.

**Health Care–Medi-Cal:** A child will continue to be eligible for Medi-Cal as long as the child is eligible for foster care benefits. Eligibility for Medi-Cal can continue until age 21 if the child is in school.

**County child welfare agency case:** Since non-relative guardianship cases cannot be closed under Kin-GAP, the county child welfare agency will keep the case open and visit the family at least once every six months. Youth will be eligible for Independent Living Program (ILP)
services if the guardianship was granted after their 16th birthday, or the court case closed after their 16th birthday.

ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT
(FORMERLY CALLED LONG-TERM FOSTER CARE)

If the court orders “Another Planned Permanent Living Arrangement” it means the child is expected to remain in the custody of the county child welfare agency until he or she is at least 18. This is the least desirable permanent plan because it offers the least amount of stability and permanence.

If the court orders “Another Planned Permanent Living Arrangement” with you as the foster caregiver, you will continue to receive the same benefits, including cash assistance from either foster care or CalWORKs, medical coverage through Medi-Cal, and access to county child welfare agency services and resources.

DELINQUENCY COURT CUSTODY (FOSTER CARE OR LEGAL GUARDIANSHIP)

Example:

Marcel, who is 15 years old, was arrested for a fight at school and is on probation. Marcel’s probation officer believes that Marcel’s mother’s boyfriend is using drugs in the home and recommends that Marcel be placed in foster care during his probation.

A child who is arrested and charged with unlawful acts may be placed on probation and placed into the foster care system. Foster care through the delinquency court is usually referred to as “suitable placement”. If a child is placed into foster care by the Probation Department, the probation officer will attempt to locate a suitable home for the child.

As with the child welfare agency, the law requires the probation department to look for relatives and close family friends (NREFMs) to care for the child. If a relative or NREFM is located, they must be approved by probation before the child is placed in their home. The approval process is the same as for caregivers through foster care; it includes a home inspection and background check of all individuals living in the home. If no relative or close family friend can be located, the child is placed in a licensed group or foster home.

Parents of children who are placed in “suitable placement” are given family reunification services, or services which would assist them in regaining custody of their child. These services are similar to the services that are given through foster care. The parent has up to 12 months to comply with the case plan so that their child can be returned to their care. If this does not
happen, the delinquency court, like the dependency court, can grant a legal guardianship or terminate parental rights so that the child can be adopted.

FINANCIAL ASSISTANCE

The same benefits—CalWORKs or foster care benefits—are provided to caregivers of children placed by the Probation Department through a suitable placement order, as for children placed by the child welfare agency. Likewise, legal guardians or adoptive parents through delinquency court are provided the same benefits as guardians or adoptive parents through dependency court—including foster care, Kin-GAP, and AAP benefits (including specialized and dual agency rates). Children in suitable placement are also eligible for benefits under Extended Foster Care (AB 12). Please review the dependency court section above for additional information.

ADOPTION

SHOULD YOU CONSIDER ADOPTION?

Adoption is a process where the rights of the child’s biological parents are terminated, and the adoptive parents become the child’s legal parents. There are several different kinds of adoption proceedings: agency, stepparent/domestic partner, independent, and international.

An “agency adoption” occurs through the foster care system. If you are the caregiver of a child who was placed with you by the county child welfare agency, contact the child’s social worker to discuss the adoption process. Or, if the dependency court case is closed because you were appointed the child’s legal guardian and you now want to adopt the child, call the child welfare agency to begin the process. You should request an “adoption home study” and explain that the case is closed.

A stepparent/domestic partner adoption is an adoption where one parent remains as the child’s parent and a step-parent or domestic partner steps in as the second parent. This booklet will not discuss step-parent/domestic partner adoptions.

An independent adoption is an adoption of a child who is not placed with a caregiver through the foster care system. These adoptions are usually done through a licensed adoption agency that connects people who want to adopt a child, with birth parents willing to relinquish a child for adoption. The process varies depending on what county you and the child live in. Contact the county child welfare agency or a legal services provider for more information about independent adoption.

An international adoption involves the adoption of a child who is not a U.S. citizen and is living in another country. The process for international adoption varies depending on what country the child is being adopted from.
**TIP!!**

If the child in your care is not a U.S. Citizen, even if the child is currently living in the United States, you should contact an attorney to assist you with your adoption case. If the child was abused, abandoned, or neglected by their parents, it may be possible to obtain Special Immigrant Juvenile Status (“SIJS”) for the child through the adoption process, but it must be done before the adoption is finalized. SIJS may also be obtained through the probate guardianship, dependency, or delinquency court process.

**INDEPENDENT ADOPTION AND PROBATE LEGAL GUARDIANSHIP**

If you are already caring for a child outside of the foster care system, and you want to have a permanent legal relationship with the child, then you may want to consider independent adoption instead of, or in addition to, probate legal guardianship.

If both of the child’s parents consent to the adoption, the adoption proceeding can be fairly straightforward, and it may not be necessary for you to file for probate guardianship.

However, if the child’s parents do not consent, you must request that the court terminate the parent’s parental rights. Because this proceeding can be lengthy and complicated, you might want to consider applying for probate guardianship so you can make decisions for the child while the adoption is pending.

If you apply for probate guardianship and adoption at the same time, the cases will be consolidated and heard by one judge. If parental rights need to be terminated, you should consider contacting an attorney for assistance with the adoption case.

**FINANCIAL ASSISTANCE**

An informal caregiver or legal guardian who adopts a child who has never been in the foster care system is generally not eligible for any adoption benefits. However, if the child was a prior dependent who received AAP through a previous adoption that terminated, or has a disability and is found eligible for SSI benefits before the adoption is finalized, the child may be eligible for AAP. In order to qualify, the child must be assessed and qualify for AAP, including having a signed AAP agreement in effect with the County, before for the Independent Adoption is finalized.

Contact your county child welfare agency, or a legal services provider, if you are considering independent adoption of a child who may be eligible for AAP or SSI benefits.
The adoptive parent and child may also be eligible for other public benefits that are not specific to adoption, like CalWORKS and MediCal. For additional information on public benefits, please review the “Other Benefits” section.

**SPECIAL CATEGORIES**

**NATIVE AMERICAN CHILDREN**

If a child in your care is Native American, please be aware that the Indian Child Welfare Act (ICWA) requires courts to give priority to placements in Native American homes. If you need assistance with this issue, please contact an attorney.

**UNDOCUMENTED CHILDREN**

If a child in your care is undocumented and is in foster care, is under a probate guardianship, is under a suitable placement order through the delinquency court, or has an independent adoption case pending, a special process can assist the child in obtaining legal residency (green card). The process is called Special Immigrant Juvenile Status (SIJS) and is administered by U.S. Citizenship and Immigration Services, in conjunction with the court. Contact the Child’s social worker or an attorney to initiate this process. In order to file a SIJS petition, the dependency, delinquency or probate court must make an order with certain findings of fact before the child turns 18 years of age (for children in guardianship or independent adoption cases), or 21 (for children in dependency or delinquency court).

**Public Assistance Benefits for Undocumented Children**

Children who are not U.S. citizens, permanent residents, or qualified immigrants are not eligible for financial assistance unless they are placed in a foster home through Dependency Court. They can, however, access the following benefits: Regional Center; California Children’s Services (CCS); public school education; School Breakfast and Lunch; Summer Lunch Food Program; Emergency Medi-Cal; pregnancy-related Medi-Cal; Minor Consent Services Medi-Cal; county mental health services; CHDP; WIC; and services provided by many free and community clinics.
OTHER BENEFITS
CASH ASSISTANCE-CALWORKS

CalWORKs is a program for low-income parents and relatives caring for children under 19 years old. The children need to be U.S. citizens, permanent residents, or other qualified immigrants. CalWORKs provides money for children and the adult relatives caring for them. The cash aid can be used for housing, food, utilities, and other living expenses. Most adults can only get CalWORKs cash aid for 48 months in a lifetime.

If an individual qualifies for cash aid, he or she is also entitled to Medi-Cal and CalFresh (food stamps). To be eligible for CalWORKs, a family must have a child who is 1) under age 18 or under age 19 if the child is currently attending high school or vocational school and 2) deprived because a parent is dead, unemployed, disabled, incarcerated, or absent. In addition, CalWORKs applicants must also meet the income, residency, and resource requirements of the program. CalWORKs applicants are required to participate in the Welfare-to-Work Program, unless they are exempt.

Relative caregivers can receive financial assistance for children, regardless of the caregiver’s income, and regardless of whether they have obtained formal custody of the child through the court system. This financial assistance is called “Non-Needy Caregiver” CalWORKs; non-needy caregivers do not need to participate in welfare-to-work or other program requirements.

Caregivers who are low-income and already receiving CalWORKs for themselves and their own children will receive an increase in their monthly benefits for the additional child or children.

CHILD CARE ASSISTANCE THROUGH CALWORKS

CalWORKs also offers a child care subsidy program that helps families access child care as they move towards employment and self-sufficiency. The child care subsidy is available for families that 1) currently receive CalWORKs cash assistance; 2) received CalWORKs cash assistance in the past; or 3) received a lump-sum diversion payment to stay off CalWORKs cash assistance. In order to be eligible for CalWORKs child care the family must be low-income and either be working or participating in welfare-to-work activities. Even children who are not receiving CalWORKs cash assistance (e.g., children that receive SSI or are undocumented) may be eligible for CalWORKs child care.

Relatives receiving a Non-Needy CalWORKs grant do not qualify for CalWORKs subsidized childcare. However, in addition to CalWORKs, there are other child care subsidy programs. For more information about subsidized child care programs, please contact your local Resource & Referral Agency. A list of these agencies can be found at the California Child Care Resource and Referral Network (Toll Free Number 800-543-7793, http://www.rrnetwork.org/).
CHILD SUPPORT

Parents are legally required to support their children whether they are living in the same home or not. So, a legal guardian is eligible to receive child support from either parent through the local child support agency. If the child receives CalWORKs or foster care benefits, the county agency will attempt to collect child support from the parents to pay for these benefits. Caregivers may contact their county’s child support agency for information and assistance with locating parents, establishing paternity, obtaining child support orders and collecting child support.

FOOD PROGRAMS

WOMEN, INFANTS AND CHILDREN SUPPLEMENTAL NUTRITION PROGRAM (WIC)

The WIC program is a health and nutrition program that helps low-income children under age five, pregnant women and mothers with new babies eat well and stay healthy. Relative caregivers and legal guardians caring for children under the age of five are eligible for WIC. WIC provides special checks, called vouchers, to buy healthy foods at a grocery store you choose.

WIC Application

Call the Toll-Free Number 888-WIC-WORKS to find your local office. Call the local office to make an appointment. They will tell you what documents to bring to your appointment.

NATIONAL SCHOOL LUNCH AND SCHOOL BREAKFAST PROGRAMS

Children from low-income households are eligible for free or reduced-price meals every school day. Children who are in foster care, receive CalWORKs, CalFresh, or Kin-GAP are automatically eligible for free meals, regardless of their caregiver’s income. To apply, contact the child’s school and request a “Free and Reduced-Price Meals” application.

SUMMER FOOD PROGRAM

The Summer Food Program serves free nutritious meals to children age 18 and under during the summer or any time school is out for more than 15 days. Meals and snacks are served at schools, parks and recreation centers in areas where at least half the children qualify for free or reduced price meals at home. However, any child 18 or younger can eat there regardless of where they live or their family’s income.
CALFRESH PROGRAM (FORMERLY CALLED FOOD STAMPS)

Low-income households are eligible for additional money to purchase food under the CalFresh Program. EBT cards are issued and are used instead of money to purchase certain items at most grocery stores. Relative and non-relative caregivers can apply for CalFresh for children in their care. However, children who are receiving foster care or SSI benefits cannot also get CalFresh, and undocumented children are not eligible.

You may request an application for CalFresh by phone, in person, by fax or mail from your county social services office. You can download an application at http://www.dss.ca.gov.

HEALTH CARE BENEFITS

CALIFORNIA CHILDREN’S SERVICES

CCS is a state program that helps children with certain diseases, physical limitations, or chronic health problems, such as congenital heart disease, cancer, tumors, problems caused by premature birth, hearing loss, cerebral palsy, and cataracts. The child must be under 21 years of age, reside in California and have a covered condition to be eligible. Generally, the family must also meet certain financial eligibility, but adopted children who qualified for CCS prior to the adoption can continue to qualify. CCS can pay for things like hospital stays, lab tests, x-rays, orthopedic appliances, and surgeries. Occupational therapy and physical therapy provided through CCS’ Medical Therapy Program (MTP) are available irrespective of family income if the child meets the medical eligibility criteria.

IN-HOME SUPPORTIVE SERVICES (IHSS)

The In-Home Supportive Services (IHSS) Program helps pay for services provided to eligible persons who are 65 years of age or over, or legally blind, or disabled adults and children, so they can remain safely in their own homes. IHSS is supposed to provide an alternative to out-of-home care, such as nursing homes or residential care facilities.

Services authorized through IHSS can include household chores and personal care services such as non-medical assistance with respiration, bowel and bladder care, feeding, bathing, grooming, dressing, assistance with walking, help in and out of bed, assistance with medications and prosthesis care. IHSS may also pay for protective supervision for people who need to be observed 24 hours per day to protect them from injuries, hazards, or accidents.

In order to qualify for IHSS, the child must be a United States citizen, Legal Permanent Resident, or other qualified immigrant, and receive or be eligible to receive Supplemental Security Income (SSI) eligibility, or meet all SSI eligibility criteria except for income or citizenship/immigration status. Contact your county social services agency to apply.
MEDI-CAL

Children who are receiving any of the following benefits are eligible for full-scope Medi-Cal: CalWORKs, Federal or State foster care, Adoption Assistance (AAP), Kin-GAP, and SSI. You usually apply for Medi-Cal at the same time that you apply for CalWORKs or other benefits.

You can obtain Medi-Cal benefits for a child quickly. To apply for Medi-Cal for a child, you should submit the “Medi-Cal for Families” mail-in application, which you can get from a county health or social services office or by calling (877) 597-4777 or (800) 880-5305. You can also apply online at www.healthieapp.net.

RESTRICTED (EMERGENCY) MEDI-CAL

California residents, regardless of their immigration status, can obtain Medi-Cal coverage to cover emergency services, pregnancy-related care, and long-term care services. You can apply at a local clinic or hospital.

INDEPENDENT LIVING PROGRAM (ILP)

Youth are eligible for the Independent Living Program (ILP) up to their 21st birthday if one of the following criteria is met: 1) The youth is/was in foster care (through dependency court) or in suitable placement (through delinquency court) at any time from his or her 16th birthday to 19th birthday or 2) The youth is/was 16 to 18 years of age and receiving Kin-GAP benefits. Some counties also have ILP programs and services for youth who are under 16.

ILP benefits and services include:

- Education-related costs and high school graduation expenses
- Chafee Education and Training Vouchers (up to $5,000 a year for career and technical training or college). Go to www.chafee.csac.ca.gov/default.aspx for additional assistance.
- Referrals for work-related costs and transportation
- Career assistance and technology
- Referrals for mentoring resources
- Life skills training classes
- Housing programs; rental assistance; dorm assistance; start-up costs; homeless assistance funds
REGIONAL CENTERS

The California Department of Developmental Services (DDS) provides services and support to children and adults with developmental disabilities. These disabilities include intellectual disability (formerly known as “mental retardation”) cerebral palsy, epilepsy, autism and related conditions. Community-based developmental services and supports are offered through Regional Centers. Developmental services and supports include, but are not limited to, behavioral intervention services, community integration services, social skills training, adaptive skills training, adaptive equipment, specialized medical and dental care, counseling and family support services such as respite, day care and diapers. There is no charge for diagnosis and assessment for establishing eligibility. Immigration status of the applicant is irrelevant. Once eligibility is determined, most services are free regardless of age or income.

Infants and toddlers (age 0 to 36 months) who are developmentally delayed are eligible, while those with certain risk conditions, such as being prenatally exposed to drugs or alcohol, may also qualify for, Early Intervention services through the Regional Center. These services include, but are not limited to, infant stimulation programs, occupational, feeding, physical and speech therapies, and behavioral intervention services. If you have additional questions, see Public Counsel’s brochure on Regional Center Benefits. For further information contact a local Regional Center.

Caregivers of children under the jurisdiction of the dependency or delinquency court can be appointed as the developmental services decision-maker to make decisions regarding Regional Center services for the child.

California Department of Developmental Services (DDS)
(916) 654-1690
TTY: (916) 654-2054
www.dds.ca.gov

SOCIAL SECURITY ADMINISTRATION (SSA) BENEFITS AND CAPI

Caregivers can request that they be appointed as the child’s payee for benefits from the Social Security Administration.

The Social Security Administration is a federal government agency that administers several programs, including SSI (for people with disabilities), SSDI (for dependents of retired/disabled persons), and survivor’s benefits (for children of deceased parents who paid into the Social Security system). Both guardians and informal caregivers can request to become representative payees—there is no requirement that a caregiver become a foster parent, legal guardian, or
adoptive parent to become the payee. However, the Social Security Administration has an order of preference for appointing representative payees.

If the child is in foster care, the county child welfare agency is required to screen the child for possible SSI eligibility (even though children cannot actually receive SSI payments while they are receiving foster care benefits). The agency is also required to inform youth who are approaching their 18th birthday regarding SSI eligibility requirements information on how to become their own representative payee or designate someone to be their payee. For youth who may not have been receiving SSI due to being ineligible while in foster care, DCFS is required to ensure that the youth are referred for SSI and that they have these benefits in place when they transition out of foster care.

TIP!!
If you are a relative receiving only CalWORKs funding for a child, and the child has a disability, you should apply for SSI benefits for the child. The SSI benefit amount is higher than CalWORKs. If you have questions regarding CalWORKs, foster care, SSI and other benefits, contact a legal services provider.

SUPPLEMENTAL SECURITY INCOME (SSI) BENEFITS FOR DISABLED CHILDREN

If the child that you are caring for has either physical or mental disabilities, he or she may be eligible for Supplemental Security Income (SSI), a cash assistance program available through the Social Security Administration (SSA). The amount of money varies from year to year and depends, too, on the household income. However, the process can be lengthy, taking as many as eight or more months before the application is approved. Applicants with certain kinds of disabilities can request “presumptive eligibility” allowing them to start receiving benefits while their application is pending.

SOCIAL SECURITY FAMILY/DEPENDENT’S BENEFITS

If the child’s parents or caregivers are receiving Retirement or Disability benefits, the child may be eligible for Dependent’s Benefits.

SOCIAL SECURITY SURVIVOR’S BENEFITS

If the child’s parent(s) is deceased and has a work history, the child may be eligible for Social Security Survivor’s Benefits. The amount of money available to the child will depend on the parent’s earnings during his or her life.

SOCIAL SECURITY DEPENDENT’S BENEFITS FOR DISABLED ADULT CHILD

If a child was receiving Dependent or Survivor’s Benefits prior to his or her 18th birthday, he or she may be eligible to continue to receive Dependent or Survivor’s Benefits as a “Disabled
Adult Child.” To qualify, he or she must be over 18, unmarried, and had a disability that began before the age of 22.

An application for any of these benefits may be made at your local security office

The caregiver should go to the SSA office, explain that the child is now living with them, and ask for the SSA-11 form, which is the application to become the rep payee. The caregiver should bring documents to prove their identity and their relationship to the child (if they have them). SSA will then make a decision on whether they should be the rep payee. If denied, the caregiver can appeal.

Social Security Administration
Toll-Free Number 800-772-1213
www.ssa.gov

CASH ASSISTANCE PROGRAM FOR IMMIGRANTS (CAPI)

CAPI is cash assistance for certain low-income immigrants who have a disability, are blind, 65 or older, and ineligible for SSI because of immigration status. To get CAPI, you must be a Qualified Immigrant (includes immigrants who became citizens, lawful permanent residents, refugees, asylees, and persons granted withholding of deportation or removal), a victim of trafficking or an applicant for U visa/interim relief, or you must be PRUCOL (Permanently Residing Under Color of Law- meaning that immigration officials know that you are residing in the United States but do not plan to deport you). CAPI benefits are similar to SSI. Applicants with certain qualifying conditions can request presumptive eligibility and start receiving benefits while their application is pending.

VETERANS’ BENEFITS

If a child is a dependent of a qualified veteran, the child may be eligible for dependent’s benefits. Similar to Social Security Dependent Adult Child Benefits mentioned above, certain adult children of deceased veterans may also be eligible for dependent benefits. Contact a regional Veterans’ Administration office to request an application for dependent benefits.

Veteran’s Administration Compensation & Pension Service
Toll-Free Number 800-827-1000
www.va.gov
GLOSSARY OF TERMS

Adoption
A legal process where birth parents’ rights are terminated and parental rights are given to another person or persons.

Non-Related Extended Family Member (NREFM) Any adult caregiver who has an established familial or mentoring relationship with a child.

Delinquency Court
A division of the Juvenile Court that hears cases about children and youth who are charged with a crime.

Dependency Court
A division of the Juvenile Court that hears cases about children and youth who have been abused, neglected or abandoned.

Foster Care
The process where children in the custody of the juvenile court are placed with relative or non-relative foster parents.

Juvenile Court
A division of the Superior Court that hears juvenile dependency and delinquency cases.

Legal Custody
To be legally responsible for a child’s care and have the right to make decisions regarding the child’s life.

Legal Guardian (of the person)
A non-parent who is given custody of a minor child.

Minor
A person under the age of 18.

Parental Rights
The right to make decisions regarding the child’s living situation, education, health care, etc., and the responsibility to care for and support the child.

Physical Custody
The right and responsibility to provide a home and day-to-day care of a child.

Probate Court
A division of the Superior Court that hears legal guardianship and conservatorship cases.

Probation Department
The county department that supervises youth in the delinquency system who are on court-ordered probation.

Relative
Any person related to a minor child by blood, marriage or adoption within the fifth degree of kinship. This includes: (1) The father, mother, brother, sister, half-brother, half-sister, uncle, aunt, first cousin, first cousin once-removed, nephew, niece, or any such person of a preceding generation with the prefixes grand, great-, great-great-, or great-great-great; (2) The stepfather, stepmother, stepbrother, or stepsister; (3) The spouse of any of the above persons, even after marriage has been terminated by death or divorce.

Termination of Parental Rights
A legal process where parents’ rights and responsibilities are ended by the
court, and there is no longer a legal parent-child relationship.
RESOURCES

CHILD CARE

Public and private organizations may provide free or reduced-cost child care and after school care for eligible minor children. These programs may be offered at local community centers, churches and schools. Eligibility for these programs will be based on a variety of factors, including child’s age, household income and parent’s or guardian’s job hours.

For more information about finding an appropriate child care provider, state licensing requirements, and the availability of child care subsidies, please contact the California Child Care Resource and Referral Network (Toll Free Number 800-543-7793, http://www.rnnetwork.org). The California Child Care Resource and Referral Network also administers the TrustLine, a registry of child care providers that have cleared criminal background checks in California. To check if a provider is registered with the TrustLine, call 1-800-822-8490 or visit their website at www.trustline.org.

Child Care Providers:

In most communities, there is a constant need for quality child care providers. For information on how to become a child care provider or to access low-cost/free trainings on health, safety, child development, and sound business practices, please contact the California Child Care Resource and Referral. Local Resource & Referral Agencies also have a library of educational materials and toys that providers can utilize for their own child care programs.

California Child Care Resource and Referral Network
Toll-Free Number 800-543-7793
www.rnnetwork.org

CONSERVATORSHIP

A Conservatorship is a proceeding where a person or organization is appointed by the probate court to protect and manage the personal care, or property and financial affairs, or both of an adult who has been found unable to manage his or her own affairs.

As Conservator of the Person, you will make decisions regarding the person’s health care, meals, clothing, personal care, housekeeping, transportation and recreation. As Conservator of the Estate, you will manage, invest and protect the person’s assets.
If you are caring for a minor child with disabilities that will last into adulthood, you might consider contacting a legal service provider to assist you with the conservatorship process. You can also review materials online at the California Courts Self Help Center Web site.

California Courts Self Help Center
www.courthelp.ca.gov.

EDUCATION

IMMUNIZATIONS

Immunizations are an important preventative health measure that protects children against dangerous diseases such as measles, mumps, rubella, polio, hepatitis B and chickenpox. Certain immunizations are required by California law in order to enroll a child in school. A parent or guardian must accompany a child who is to be immunized and should bring a copy of the child’s immunization record. A child may be exempted from some or all immunizations by (1) a doctor because of a medical condition or (2) a parent or guardian because of personal or religious beliefs. If you have questions, ask your child’s school or child-care provider for additional details.

SPECIAL EDUCATION

Example:

Mary is 11 years old and a fifth grader. She has always loved reading but is not doing very well in her classes this year. Her aunt, Louise, is her legal guardian and has had several meetings with her teachers regarding Mary’s school work. Louise is not getting much help from Mary’s teachers and is not sure how to help her niece.

Do you think your child might have a disability that affects his or her educational performance at school? If so, your child may need special education services. Under the Individuals with Disabilities Education Act (IDEA), a school is required by law to provide special education and related services to eligible children with disabilities, from three years through 21 years of age. Disabilities include hearing or visual impairment, emotional problems, learning impairment and physical impairment.

Special education instruction and related services are provided at no cost to the caregiver because state and federal law require that children with disabilities are entitled to a free, appropriate public education (FAPE). Some examples of these services include speech and language therapy, counseling services, transportation services to a specific school and specialized textbooks.
Although your child’s school has a legal responsibility to identify students who are eligible for the special education services, school personnel may not find out on their own that your child needs help. It is important that you make a written request for an assessment to determine if your child’s problems in school are related to a disability that qualifies him or her for special education services. An example of a letter requesting a referral for assessment is included among the Sample Forms at the end of this booklet.

**Note:** You must become the child’s legal guardian, be appointed as the educational representative or surrogate by the school district, or be given education rights by the dependency court before you can consent to special education assessments and services. Caregivers of children under the jurisdiction of the dependency or delinquency court can be appointed as the educational rights holder to make educational decisions for the child. In making the appointment, the court will first try to appoint a relative or other adult known to the child who is willing and able to serve in this capacity before appointing someone not known to the child.

Once the Referral for Assessment letter is submitted, the school has 15 days to create a Proposed Assessment Plan. This plan will be submitted to the caregiver with education rights who then has 15 days to decide whether to sign and agree to the proposed assessment plan. Once the assessment is conducted, the school has 60 days to develop an Individual Education Plan (IEP) for the child designed to meet the unique educational needs of the student.

The caregiver is required to participate in the process and has the ability to appeal decisions regarding the IEP. Consult your local school to obtain the evaluation request forms regarding the Individual Education Program (IEP) process, or a legal service provider.

You can also consult Public Counsel’s booklet: Special Education Rights and Responsibilities for more information. To obtain a copy, call (213) 385-2977 x500 or visit www.publiccounsel.org.

**COLLEGE FINANCIAL AID**

If you are caring for a child who is nearing high school graduation, it is important to discuss future plans, including college education. A student who plans to attend college needs to make sure that she is taking the required courses (often referred to as the A-G requirements). One helpful website for planning and reviewing required credits and courses needed is www.californiacollages/admissions. Click on High School Planner. Another helpful website is www.cacollegepathways.org, which provides an Education Planner for students.

In addition, it is important to complete the college financial aid in a timely manner to ensure the best financial aid package available. To receive financial aid from the federal government you must complete the Free Application for Student Aid (FAFSA) found at: http://www.fafsa.ed.gov/. You can also request a copy of the FAFSA application from a high
school counselor or from any college or university financial aid office, trade and technical school, or at any public library.

Generally, the financial aid application requires that the student provide income information for her parents. However, if the child’s parents are not caring for him or her, the child can request that he or she be considered as an “independent student.” Contact a college financial aid administrator for more information. **Children who have been in foster care at any time after the age of 13 qualify automatically as “independent students.”** Also, youth in foster care can contact an ILP coordinator for assistance with college planning. See the section on Independent Living Program Services for additional information.

**EMANCIPATION**

Emancipation is a court proceeding by which youth under 18 may become freed from the custody and control of their parents or guardian. Emancipation means a child is legally separated from his or her parents or legal guardian and has some of the rights and responsibilities of an adult. Only older youth who do well in school and can support themselves financially will qualify.

Emancipation makes important changes in the child’s relationship with parents, guardians and public agencies. For example,

- A child will lose the right to have financial support—basic living expenses and health care—paid by parents or guardians;

- Parents or guardians will no longer be legally or financially responsible for any injuries the child may cause to others.

If the child in your care has expressed an interest in becoming emancipated, we recommend you seek the advice of a legal services provider.

**WORK PERMIT**

In all states, laws regulate how and when a child is permitted to work. In California, children who are 12 and 13 years old may obtain a work permit that allows them to work on school holidays and vacations.

With permission from their school or guardian, children who are 14 and 15 may also work on school days but are restricted to certain hours and lengths of employment.

A full-time work permit is available to children who are 14 to 16 years old, if the minor needs employment to support self or family or resides in foster care or with a guardian, and obtains the written permission of the foster parent, guardian or social worker and permission
from their school. Children over the age of 16 can obtain full-time work permits without parental permission.

You must contact the child’s school to obtain a copy of the “Statement of Intent to Employ Minor and Request for Work Permit (B1-1).” School districts have discretion to approve or deny a work permit application.

**ESTATE PLANNING**

A will is a document that directs how you want your estate to be handled after your death. It may include instructions on how to dispose of your remains, who is to handle your affairs (the Executor), who is to be the guardian of any minor children (if no other person is responsible for the children), whom to give your assets and real or personal property and any other matters. If you are caring for minor children, it is very important to write a will naming a guardian for the children.

You can get a copy of the California Statutory Will from www.courtinfo.ca.gov. If you have any questions about drafting a will, you should contact a legal services provider.

A trust is a long-term arrangement where a manager (called a “trustee”) invests and manages assets for someone (called a “beneficiary”) based on the terms of the person who set up the trust. There are many kinds of trusts, including trusts created by wills (called “testamentary trust”) and trusts created during your lifetime (called “living trust”). “Special needs trusts” may be used to protect government benefits of people with disabilities who inherit property, settle claims, or win judgments. Because trusts can be complicated, we recommend that you consult an attorney with expertise in this area if you want to create a trust.

**FOSTER CARE OMBUDSMAN**

The Foster Care Ombudsman allows foster children and youth to file complaints regarding their placement, care and services without fear of retribution. The Ombudsman will investigate complaints made by or on behalf of children placed in foster care.

Foster Care Ombudsman - Department of Social Services
744 “P” St., MS 9-025
Sacramento, CA 95814
Phone: 877-846-1602
e-mail: fosteryouthhelp@dds.ca.gov

**INCOME TAX RETURNS**

A minor may be required to file federal and state income tax returns if the child has earnings or unearned income in the form of interest in excess of certain limits. However, a parent or
guardian may elect to claim the child as a “dependent” on federal or state income tax returns. If the minor child’s tax is not paid, a parent or guardian may be liable for that tax.

All caregivers should be aware of the following tax credits, deductions and exemptions that can be claimed on their federal and state income tax returns related to caring for a minor child. You may qualify for the credits even though you do not owe any income tax. You should consult a tax professional to discuss your particular circumstances.

- Itemized Deductions: Medical and Dental Expenses
- Tax Credits: Child and Dependent Care Expenses, Child Tax Credit, Adoption Credit/Exclusion
- Payments: Earned Income Credit

TIP!!

The Volunteer Income Tax Assistance (VITA) provides free tax preparation assistance to individuals who earn $51,000 or less. For a list of VITA locations, call 1 (800) 906-9887 between January and April or go to http://irs.treasury.gov/freetaxprep/.

Internal Revenue Service
Toll-Free Number 800-829-1040
www.irs.gov

Franchise Tax Board
Toll-Free Number 800-338-0505
www.ftb.ca.gov

Taxpayer Advocate Service
Toll-Free Number 877-777-4778

SOCIAL SECURITY DOCUMENTS

The Social Security Administration (SSA) issues Social Security numbers.

Social Security Administration
Toll-Free Number 800-772-1213
www.ssa.gov
TRANSPORTATION

CHILD SAFETY SEATS

All children must be secured in a child passenger restraint (safety seat or booster seat) in the back seat of a car until they are at least 6 years old or weigh at least 60 pounds. Driver cited for transporting an unrestrained child can be fined and given a point on their driving record. If you need help adjusting a child safety seat, you can contact the California Highway Patrol (CHP) for assistance. The CHP also provides a limited number of replacement child safety seats to those in need.

To find a child safety seat inspection station near you, go to:
www.nhtsa.gov

DRIVER’S LICENSE

At age 15, a child may apply for a provisional driver’s license or permit. A parent or guardian will be required to sign the application form. When a parent or guardian signs the application form for a minor to get a driver’s license, they are stating that they will accept financial responsibility for that minor. In California, drivers and vehicle owners are required to carry automobile insurance with minimum monetary limits. If you have questions, contact the Department of Motor Vehicles.

DMV
Toll-Free Number 800-777-0133
www.dmv.ca.gov
Sample forms
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 5-8 is additionally required to authorize any other medical care. Print clearly. The minor named below lives in my home and I am 18 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.

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 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. The affidavit is invalid after the school, health care provider, or health care service plan receives notice that the minor no longer lives with you.

4. If you do not have the information requested in item 6 (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 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. A 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 not subject to criminal liability or to civil liability to any person, and is not 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.
CHILD CARE AUTHORIZATION

I, ____________________________, am the parent or guardian of the following child(ren), and legally entitled to grant this authorization.

CHILD’S NAME: _______________ CHILD’S NAME: _______________
DATE OF BIRTH: _______________ DATE OF BIRTH: _______________

CHILD’S NAME: _______________ CHILD’S NAME: _______________
DATE OF BIRTH: _______________ DATE OF BIRTH: _______________

I grant authority, limited to the below defined powers, over the above child(ren) to:

NAME OF PERSON GRANTED AUTHORIZATION: ____________________________
ADDRESS: ____________________________

NAME OF PERSON GRANTED AUTHORIZATION: ____________________________
ADDRESS: ____________________________

The powers granted to ____________________________ are the following (check and initial):

□ To authorize medical and dental care for the above child(ren), including but not limited to medical examinations, x-rays, tests, anesthetic, surgical operations, hospital care, or other treatments that are needed or useful for my child. Such medical treatment shall only be provided upon the advice of and supervision by a physician, surgeon, dentist, or other medical practitioner licensed to practice in the United States;

□ To provide food and shelter for the above-named child(ren), and to make decisions regarding their day-to-day activities;

□ To enroll the child(ren) in school and/or daycare and make educational decisions, including authority to consent to school-related activities and field trips;
□ To transport the child(ren), including authorization to pick the child up from school or daycare;

□ Other powers granted (for example if you want the caregiver to have authority to take the child(ren) out of state, write that here):

Check one:

□ This grant of authority is effective as of _________ and shall remain in effect until terminated by the undersigned parent or guardian.

□ This grant of authority shall be valid for the following time period:

From _______________, 20___ until ________________, 20___.

Parent/Guardian’s signature: ___________________________ Date: ________________

Parent/Guardian’s signature: ___________________________ Date: ________________

Caregiver’s signature: ___________________________ Date: ________________

Notary Seal: (RECOMMENDED)
INDIVIDUAL EDUCATION PLAN (IEP)

REQUEST FOR INITIAL SPECIAL EDUCATION ASSESSMENT AND IEP

Date: / / 
Principal: _______________________
School: ______________________________
Address: ______________________________________________________________

Re: Request for Initial Special Education Assessment and IEP

Student Name: ___________________________ D.O.B.: / /

Dear Sir or Madam:

I am the parent of (student name) _________________________, a student attending your school. I am very concerned that my child is not progressing in school and may need a special education program to meet his/her educational needs.

Thus, I am requesting a multi-disciplinary team evaluation to determine whether (student name) ________ is eligible for special education and related services under IDEA (including the IDEA “Other Health Impaired” category), Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Section 794, California Education Code Sections 56029 and 56302, and 5 C.C.R. Section 3021.

In preparation for this meeting, I am requesting that comprehensive assessments be conducted in all areas of suspected disability including, but not limited to, health and development, vision, including low vision, hearing, motor abilities, language function (speech/language), general intelligence, academic performance, communicative status, self-help, orientation and mobility skills, career and vocational abilities and interests, and social and emotional status. See Cal. Educ. Code § 56320(f). Also, please [Fax to ( )_____________] or [Mail] a copy of such evaluations and the protocols to my attention within a reasonable time prior to the meeting. See Cal. Educ. Code § 56329(a)(3).

I look forward to receiving a copy of the assessment plan within 15 days. See Cal. Educ. Code § 56043(a). Please be sure to attach a notice of parent’s rights to this assessment. See Cal. Educ. Code § 56301(d)(2). I also understand that an IEP team meeting must be held within 60 days of my consent for an evaluation. See Cal. Educ. Code § 56302.1(a); see also Cal. Educ. Code § 56341.5(e).

Thank you in advance for your prompt action regarding this request. If you have any questions or concerns, please feel free to call me at ( )______________.

Sincerely,

______________________________
_________________________________
<table>
<thead>
<tr>
<th>Signature of Parent/Legal Guardian</th>
<th>Print Name/Relationship to Student</th>
</tr>
</thead>
</table>

[Public Counsel Logo]
REQUEST FOR RECORDS

Date: / /  
Principal: ___________________________  School: ______________________________
Address: ___________________________________________________________________

Re: Request for Records

Student Name: ___________________________  D.O.B.: / /  
| Special Education Student

Dear Sir or Madam:

In order to help me better understand my child’s educational progress and how to help him/her in school, I am writing to request a copy of all school records for (student name) ______________, including, but not limited to, the cumulative file and ALL:

- Individualized Education Programs (“IEPs”)/504 Plans;
- Disciplinary Records, including, but not limited to, suspension and expulsion notices and referrals to a counselor or other school official;
- Attendance Records;
- Standardized Test Scores;
- Reports;
- Assessments and protocols;
- Grades/Progress Reports;
- Notes by teachers or other staff members;
- Memoranda.

As you are aware, the law requires that the records be provided within five (5) business days of the request.  See Cal. Educ. Code §§ 56504, 56043(n) (special education students) and 49069 (all students); see also FERPA, 20 U.S.C. § 1232(g) and 34 C.F.R. § 99.10 (discussing access to records generally).

Also, specifically, low-income parents have a right to receive copies of school records free of charge.  See Cal. Educ. Code § 56504.  I request that any fees associated with the production of copies be waived based upon financial hardship.

Please [ ] Fax to ( ____________) or [ ] Mail or [ ] Arrange for pickup on / / / a copy of these records to my attention.  Thank you in advance for your prompt action regarding this request.  If you have any questions, please feel free to call me at ( ____________).

Sincerely,

____________________________  __________________________________
The following charts compare some of the main legal differences between informal relative caregivers, legal guardians, and adoptive parents. Note that legal guardianship can be obtained through probate, dependency or delinquency court.

<table>
<thead>
<tr>
<th>Informal Custody</th>
<th>Legal Guardianship</th>
<th>Adoption</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parents have full rights, including the right to reclaim the child at any time</td>
<td>Parents’ rights suspended and transferred temporarily to legal guardian; parent must go to court to terminate the legal guardianship before reclaiming the child</td>
<td>Parent’s rights are terminated. The adoptive parent becomes the child’s legal parent.</td>
</tr>
</tbody>
</table>
### CAREGIVER’S BENEFIT CHART

<table>
<thead>
<tr>
<th>TYPE OF CAREGIVER</th>
<th>TYPE OF BENEFIT</th>
<th>Non-Needy CalWorks</th>
<th>Foster Care (federal, state, or county)</th>
<th>Full-Scope Medi-Cal *</th>
<th>SSI (if child has qualifying disability**)</th>
<th>Kin-Gap</th>
<th>AAP</th>
</tr>
</thead>
<tbody>
<tr>
<td>INFORMAL CAREGIVER</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Relative</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Non-Relative Caregiver</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>PROBATE COURT LEGAL GUARDIAN</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Relative</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Non-Relative</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>DEPENDENCY/DELINQUENCY COURT</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Relative Foster Parent OR Relative Caregiver through Suitable Placement</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Non-Relative Foster Parent through Dependency or Suitable Placement</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Relative Legal Guardian</td>
<td>Yes (see Dependency Court section on next page)</td>
<td>Maybe (see Dependency Court section on next page)</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes (see Dependency Court section on next page)</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Non-Relative Legal Guardian</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Adoptive Parent (related or unrelated)</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>Yes **</td>
<td>No</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>INDEPENDENT ADOPTION</td>
<td>No</td>
<td>No</td>
<td>Generally, no (but see Independent Adoption section on next page)</td>
<td>Yes</td>
<td>No</td>
<td>Generally, no (but see Independent Adoption section on next page)</td>
<td></td>
</tr>
</tbody>
</table>
* MEDI-CAL

Children cannot obtain full-scope Medi-Cal if they are not U.S. citizens, lawful permanent residents, or other qualified immigrants. Children who do not qualify for full-scope Medi-Cal can still receive Emergency Medi-Cal, Minor Consent Medi-Cal, and Pregnancy-related Medi-Cal.

** SSI

Children in low-income households with certain qualifying disabilities may receive SSI. In some cases, it would be beneficial for a caregiver to apply for SSI because the benefit amount would be higher than other benefit programs the child is eligible for. In other instances, the child may qualify for other forms of financial assistance that would be higher than SSI.

Generally, if you are a relative caregiver and receiving non-needy caregiver CalWorks, and you are caring for a child with a disability, it would be beneficial to apply for SSI. However, if you are receiving foster care benefits or AAP benefits, specialized rates exist in most counties for children with disabilities, medical issues, or other significant emotional difficulties. If the child is receiving the right specialized rate, this rate may be higher than the SSI rate. If you are receiving only the basic foster care rate and are caring for a child with a disability, you can request that the child be evaluated for a higher specialized rate through the county. If you are receiving SSI, you must report to the Social Security Administration any other benefits you receive (such as Foster Care or AAP). The SSI may be reduced based on receipt of these other benefits. The county may still apply for SSI for the child in order to reimburse itself in part for the cost of foster care. For more information about specialized rates, see:

http://www.childsworld.ca.gov/PG1649.htm

IMMIGRATION STATUS

A child must be a citizen, lawful permanent resident or other qualified immigrant to receive Cal-Works, federal or state foster care, Social Security, full-scope Medi-Cal, Kin-Gap, or AAP. In some counties, undocumented children can receive a foster care benefit paid through the county. In addition, the child can receive other benefits, such as the ones listed in the Special Categories/Undocumented Children section above, on page 40.

If a child is under the jurisdiction of the dependency, delinquency, or probate court, or is being adopted, and has been abused, abandoned, or neglected by one or both parents, it may be possible to obtain legal residency (green card) for the child through Special Immigrant Juvenile Status (SIJS). If the child is undocumented, it is very important that the court case does not close with legal guardianship or adoption before the SIJS is approved by Citizenship and Immigration Services. If the child has a social worker, ask for help with the SIJS process. Otherwise, contact a legal services provider for assistance.
CAREGIVER BENEFITS INFORMATION SHEET

INFORMAL CAREGIVER (no court order):

Relatives who are informal caregivers can receive CalWorks and Medi-Cal. No formal custody order is necessary. Caregivers income is not counted if caregiver is applying for the child only (“non-needy caretaker”). Child must be a U.S. citizen, legal permanent resident, or other qualified immigrant. Caregiver’s immigration status does not matter.

Non-relatives who are informal caregivers cannot receive CalWorks. They must become legal guardians through probate court, or have the child placed with them through dependency court (foster care) or under a suitable placement order (delinquency) to qualify. They can, however, get Medi-Cal for the child.

PROBATE COURT LEGAL GUARDIAN

Relatives who are probate court legal guardians can receive non-needy CalWorks and Medi-Cal. Caregiver’s income is not counted if caregiver is applying for the child only. The child must be a U.S. citizen, legal permanent resident, or other qualified immigrant. Caregiver’s immigration status does not matter.

Non-relatives who are probate court legal guardians can receive foster care benefits and Medi-Cal if the child is a citizen, legal permanent resident, or qualified immigrant.

DEPENDENCY AND DELINQUENCY COURT

Foster caregiver (Dependency Court) OR Caregiver through Suitable Placement Order (Delinquency Court)

Relative caregiver: A relative caregiver will receive either CalWorks or foster care benefits for the child. Foster care benefits are higher than CalWorks benefits. The rules on which children qualify for foster care benefits are complicated, but the child must have come from a low-income household. Foster care benefits include specialized (higher) rates for children with disabilities certain medical or emotional problems. The child also receives Medi-Cal.

Non-relative caregiver: Foster caregivers who are not relatives (including family friends and other NREFMs) receive foster care benefits. The child also receives Medi-Cal.

Dependency or Delinquency Court Legal Guardian

A relative who has cared for a child for at least six months, and becomes a legal guardian through the juvenile court, can qualify for “kinship guardianship assistance program” or Kin-GAP payments after the case is closed. Kin-GAP payments are equal to the foster care rates, including the higher specialized rates for children with disabilities or special needs. Once the guardianship is granted and the case is closed, a relative caregiver can receive KinGAP benefits even if he or she was previously only receiving CalWorks benefits (or no benefits at all).
A non-relative caregiver who becomes the child’s legal guardian through the juvenile court will continue to receive foster care benefits, including any specialized rate. All guardians will also receive Medi-Cal benefits for the child.

**Agency Adoption (through county child welfare agency)**

Adoptive parents who adopt a child who was placed with them by the county child welfare agency will receive Adoption Assistance Program (AAP) benefits. AAP benefits are negotiated with the child welfare agency in each case, and can include higher rates for children with disabilities or special needs. AAP rates are reviewed periodically (about every 2 years). A child adopted through foster care is also eligible for Medi-Cal.

**INDEPENDENT ADOPTION**

If you adopt a child who was not placed with you through the county child welfare agency, you are not eligible for AAP. You can receive CalWORKs and Medi-Cal for yourself and the child if you are low-income. If the child has a disability, you may apply for SSI benefits for the child.