



California Fostering Connections to Success Act

Assembly Bill 12 Primer

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Developed by the AB 12 Bill Authors & Co-Sponsors

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Foster Care After Age 18 – QUICK FACTS

Q1: What is AB 12?

A: Assembly Bill 12 (“AB 12”), authored by Assembly Member Jim Beall, Jr. and Speaker-Emeritus Karen Bass, is a bill, also known as the California Fostering Connections to Success Act, which was signed into law by Governor Arnold Schwarzenegger on September 30, 2010.

Q2: What will AB 12 do?

A: AB 12 allows California to take advantage of several components of the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351) to:

1. Convert California's kinship guardian assistance program (Kin-GAP) into a federally subsidized program. By doing so, the federal government will now pay a 50% share of cost for federally-eligible participants, saving the state tens of millions of dollars of state general funds (GF);
2. Extend foster care for eligible youth beyond age 18 and, at full implementation, up until the age of 21; and
3. Provide extended Kin-GAP assistance or AAP assistance to eligible youth up until age 21, provided the youth entered guardianship or adoption at age 16 or later per federal law.
4. Provide extended assistance up to age 21 to two other populations: youth placed by juvenile court with a nonrelated legal guardian (without regard to age of youth when guardianship was ordered) and youth placed by juvenile court with an approved CalWORKs relative¹. Wic 11405 and 11253

Q3: What must a youth do to be eligible for foster care after age 18?

A: In order to receive AFDC-FC, Kin-GAP, AAP or CalWORKs benefits after age 18 under AB 12, a youth must agree to reside in an eligible, supervised foster care placement and must be:

1. Completing high school or equivalent program (i.e. GED); OR
2. Enrolled in college, community college or a vocational education program; OR
3. Participating in a program designed to remove barriers to employment; OR
4. Employed at least 80 hours a month; OR
5. Unable to do one of the above requirements because of a medical condition.²

Q4: When will AB 12 be implemented?

A: The conversion of Kin-GAP from a state and county-funded program to a federally subsidized program will begin January 1, 2011. The provision to extend foster care benefits past age 18 will be phased-in over 3 years starting January 1, 2012.

Q5: Are foster youth ages 18-21 required to continue in foster care? May an exited youth reenter care?

A: Participation in foster care after age 18 under AB 12 is voluntary. Foster youth can decide to exit at age 18, or anytime before they turn age 21. Under AB 12, however, foster youth who have exited will have the option to reenter foster care before they turn 21 under the trial independence provision, described in more detail in Eligibility.³

Q6: What is the process for implementing AB 12? What happens next?

A: It is now up to the California Department of Social Services, along with stakeholders, to develop the rules and regulations required to carry out the changes described above and obtain federal approval to

¹ Welf. & Inst. Code § 11405; 11253.

² Welf. & Inst. Code § 11403(b) (effective January 1, 2012).

³ Welf. & Inst. Code §§303, 366.31; 391.

amendments in the State IV-E Plan. This will be accomplished through a series of workgroups. Guidance to counties in the form of All County Letters must be completed by October 1, 2011. The deadline for development of regulations is July 1, 2012. In addition the Judicial Council will be developing and revising its Rules of Court and JV forms impacted by the new court processes.

Q7: Where can I get more information on AB 12?

A: Until more information is available through the California Department of Social Services, you may visit the California Fostering Connections project website at www.cafosteringconnections.org or contact representatives of the bill sponsors on the front cover. If you are a member of one of the stakeholder associations, you may be able to participate in one of the workgroups developing program rules. You can access the full text of the bill by following this [link](#).

Foster Care After Age 18 – ELIGIBILITY

Q8: What are the basic eligibility requirements for a foster youth to receive foster care benefits after age 18 under AB 12?

A: There are four basic eligibility requirements for a youth to continue to receive support after the age of 18 (up until age 21 at full implementation) under AB 12. The youth must (1) sign a mutual agreement with the county child welfare or probation agency or tribe that has a IV-E agreement with the state for supervision and support; (2) continue under the jurisdiction of the juvenile court as a dependent or a ward, (3) meet one of the five participation conditions and (4) agree to live in a supervised placement that is licensed or approved under new standards for 18 to 21 year olds. These requirements are outlined in greater detail below.⁴

Q9: What is the process for a youth to voluntarily remain in foster care after age 18? Is it an “opt-in” process or an “opt-out” process?

A: AB 12 provides an “opt-out” process for youth to voluntarily elect to remain in foster care after age 18. This means that a youth’s foster care will be extended past age 18 unless s/he elects to be discharged. At the hearing that occurs in the six months period before the youth’s 18th birthday, AB 12 requires the court to ensure the following: (1) That the youth’s transitional independent living case plan includes a plan for the youth to satisfy one or more of the five participation conditions, so that the youth is eligible to remain a nonminor dependent. (2) That the youth has been informed of his or her right to seek termination of dependency jurisdiction and understands the potential benefits of continued dependency. (3) That the youth is informed of his or her right to have dependency reinstated and understands the potential benefits of continued dependency.

Q10: What does it mean for a youth over 18 to be in foster care under the jurisdiction of the juvenile court?

A: To receive foster care benefits after the age of 18, a youth must remain under the jurisdiction of the juvenile court as a dependent or ward. This means that the youth continues to have a six-month review hearing in court or an administrative review. During that hearing, the court will ensure the youth continues to meet one of the participation conditions for foster care benefits, that the social worker or probation officer is continuing to assist the youth in meeting these eligibility conditions, will also assess the youth’s progress in meeting the goals in his or her Transitional Independent Living case Plan (TILP) and efforts made by the placing worker to assist the youth to obtain permanent connections with caring and committed adults. AB 12 specifies that these case reviews shall be conducted in a manner that respects the youth’s status as a legal adult.⁵ After age 18, AB12 uses the term “nonminor dependents” to refer to these youths who remain under the jurisdiction of the court.⁶

Q11: What are the goals of the Transitional Independent Living Plan for youth age 18 to 21?

A: The goals of the TILP for youth 18 to 21 are: (1) to develop permanent connections with caring and committed adults (2) to develop independent living skills and have opportunities for incremental responsibility (3) to live in the least restrictive placement.

⁴ Welf. & Inst. Code §§ 366.3; 11402; 11403.

⁵ Welf. & Inst. Code §§ 366.3; 16503.

⁶ Welf. & Inst. Code §11400(v).

Q12: What does a youth have to do to meet the participation conditions for extended foster care?

A: In order to receive benefits after the age of 18, a youth must meet ONE of the following participating requirements, set forth in federal law:

1. Completing high school or equivalent program (i.e. GED); OR
2. Enrolled in college, community college or a vocational education program; OR
3. Participating in a program designed to remove barriers to employment; OR
4. Employed at least 80 hours a month; OR
5. Unable to do one of the above requirements because of a medical condition.⁷

Q13: What is the “mutual agreement” that a youth must have in order to receive extended foster care benefits?

A: In order to receive foster care benefits, a youth must enter into a mutual agreement of consent for placement with the child welfare agency in a supervised setting and agree to work in cooperation with the placing agency to accomplish the goals of the youth’s transitional living plan.

Q14: What about youth who are non-federally eligible? How does AB 12 extend foster care for them?

A: AB 12 extends foster care for youth in the state-only AFDC-FC benefits program as well as the federal AFDC-FC program. The same rules apply for youth in the state-only program after they turn 18 as were in place before the youth turned 18. This means that a non-federally eligible youth who elects to continue living (or to begin living) with an approved relative caregiver will not qualify for the AFDC-FC payment. Such non-federally eligible youth living with an approved relative will qualify for an extended CalWORKs payment equivalent to the grant for one person. If a non-federally eligible youth elects to live in a placement that is not with a relative caregiver (i.e. a Supervised Independent Living setting or a non-relative foster family home) then the youth will qualify for the higher AFDC-FC benefits payment. Except for the fact that non-federally eligible youth are ineligible for the AFDC-FC rate payment when living with a relative, all the other rules regarding participation and supervision after age 18 are the same for federally-eligible and non-federally-eligible youth.⁸

Q15: What about youth who are currently ages 18, 19 or 20? Do they benefit from extended foster care in any way?

A: No. AB 12 does not retroactively apply to these youth. They are not eligible for extended care.

Q16: What is “trial independence” and how does it work?

A: Under AB 12, youth who have been discharged from foster care on or after age 18, because they elected to “opt out”, failed to meet one of the participation requirements, did not agree to live in an approved setting, or were on runaway status at age 18 and were unable to be located, have the option to reenter foster care before they turn 21 (or an earlier age if the bill is not yet fully implemented). To be eligible for foster care reentry after a trial discharge process, the juvenile court sets the end of the trial period to be the day prior to the day the youth turns 21 years old. This is the time during which the youth may reenter the foster care system. The reentry provision is available only to youth who agree to meet one of the five participation conditions, agree to be placed in supervised care and who were discharged after the extended foster care provision of AB 12 is in effect.⁹ A youth may petition to reenter foster care in any juvenile court in any county. However, their court and payment case will remain with the original county of Jurisdiction.

⁷ Welf. & Inst. Code § 11403(b) (effective January 1, 2012).

⁸ Welf. & Inst. Code § 11400 *et seq.*; 11402(a).

⁹ Welf. & Inst. Code §§ 366.31(c); 11400(y).

Q17: When does eligibility for foster care benefits end for youth over age 18?

A: Eligibility for benefits is either suspended or terminated if one of the following conditions is met (1) the youth requests to be discharged from foster care; (2) the youth is found to not in compliance with one of the five participation conditions at their six-month review hearing; (3) the youth is not living in a supervised foster care setting; or (4) the youth turns 21 years old (or an earlier age if the bill is not yet fully implemented)¹⁰ (5) or the youth is otherwise ineligible for foster care, such as marrying or entering the military. In the first three scenarios, eligibility for benefits is suspended under the trial independence provision. A youth can “reenter” foster care and resume receiving benefits as long as the youth opts to return, agrees to meet the participation requirements, and lives in a supervised setting.

¹⁰ Welf. & Inst. Code § 11403(e).

Foster Care After Age 18 – PLACEMENT

Q18: Are there any limitations on where a youth can live in order to receive extended foster care benefits under AB 12?

- A: The placements available to youth after age 18 include:
1. Home of a relative or NREFM(approved);
 2. Foster family home (licensed);
 3. Foster Family Agency certified home (licensed);
 4. Home of a non-related legal guardian (approved by the juvenile court).¹¹
 5. Group home, (licensed) subject to new limitations discussed further below;
 6. THP-Plus Foster Care (approved);
 7. Supervised Independent Living setting (approved).¹²

Q19: Does a youth have to remain in the same foster care placement when s/he turns age 18?

- A: No. In general, a youth may continue living in the same setting that s/he was living in prior to turning 18 or live in another placement. And, as was true before the youth turned 18, the setting where the youth lives must continue to be either an approved or licensed foster care setting, depending on the type of placement or facility. The health and safety standards for licensing and approving facilities for these young adults will be different from the current standards used for children under age 18 and will be developed in ACL's by CDSS with stakeholders by October 1, 2011.

Q20: How does AB 12 affect group home placements for youth age 18 to 21?

- A: AB 12 specifies that youth may remain in a group home after age 19 or until high school graduation only if it is necessary due to a medical condition. The medical conditions that will allow youth to continue to live in a group home over age 19 or after high school graduation will be defined in the All County Letters to be issued by October 1, 2011¹³.

Q21: What is THP-Plus Foster Care and how is it different that the current THP-Plus program?

- A: THP-Plus Foster Care is a new supervised placement available to youth in extended foster care, ages 18 to 21. It is modeled after the exiting THP-Plus program for non-dependents, and provides youth with affordable housing and supportive services in an age-appropriate setting. THP-Plus Foster Care differs from the current THP-Plus program in two ways: (1) participating youth are under the supervision of the county placing agency, meaning that they will have contact with a worker and (2) participating youth are under the jurisdiction of the juvenile court, meaning that they will have review hearings every six months. THP-Plus Foster Care will not be licensed by community care licensing;; the provider will be approved by the county placing agency and the approved provider then will certify the facility or site of placement.¹⁴

Q22: What is a Supervised Independent Living setting and how is it different from the other placement options available to youth 18 to 21?

- A: The Supervised Independent Living (SIL) setting is a new placement option for youth age 18 to 21, created in the federal Fostering Connections to Success and Increasing Adoptions Act of 2008. As defined by AB 12, a Supervised Independent Living setting is a supervised setting as specified in a

¹¹ Welf. & Inst. Code § 11402.

¹² Welf. & Inst. Code § 11400(w); 11400(x); 11402; 11403.2(a)(3).

¹³ Welf. & Inst. Code § 16501.1(c)(1).

¹⁴ Welf. & Inst. Code § 11400(x); 11403.2.

nonminor dependent's Transitional Independent Living Plan (TILP).¹⁵ This may include apartment living, room and board arrangements, college dorms and shared roommate settings. A Supervised Independent Living placement must meet health and safety standards appropriate for legal adults (to be set forth in implementing ACL's and state regulation) and must be approved by the youth's worker. A youth whose placement is a Supervised Independent Living setting may receive all or part of the foster care benefit directly pursuant to the mutual agreement. The payment for a youth living in a Supervised Independent Living is the highest age-related basic foster care rate, currently \$627 per month. A youth in a Supervised Independent Living setting is not eligible for a specialized care increment.¹⁶

Q23: If a youth moves from one Supervised Independent Living setting to another, will the benefits continue while the new setting is being approved?

A: Regulations will be developed to ensure continuity of placement and payment while the youth is temporarily absent from the first approved placement while awaiting approval of the new setting.¹⁷

¹⁵ Welf. & Inst. Code § 11400(w).

¹⁶ Welf. & Inst. Code § 11461(a). 11403(i)

¹⁷ Welf. & Inst. Code § 11402.2

Foster Care After Age 18 – BENEFITS

Q24: What are the foster care rates paid for youth age 18 to 21?

A: Youth (or their caregiver) are eligible to receive the foster care rate that is set according to the youth's placement and, in some cases, the youth's special needs. The amount of the benefit depends on where the youth is living. There are different rates available for relatives, guardians, foster family homes, group homes, and foster family agencies. The same rules that currently govern the amount of the benefit for these different placements continues in effect for those youth who remain in these placements after the age 18 as nonminor dependents. If a youth remains in one of these placements, his or her benefit will remain unchanged as a result of turning 18 and continuing in extended foster care as a nonminor dependent.¹⁸

The amount of the benefit for the THP Plus Foster Care setting has not yet been determined. AB 12 requires the California Department of Social Services to convene a workgroup of stakeholders to establish a new rate structure for youth living in THP-Plus Foster Care placements.¹⁹

Youth participating in extended foster care shall also receive Medi-Cal and a clothing allowance, just like they were receiving prior to turning 18. In addition, youth continue to receive case management and Independent Living Program Services.

Q25: Can a youth receive the foster care benefits directly?

A: Yes. A youth living in a Supervised Independent Living setting can receive all or part of the payment directly. Youth in other types of placements (like group homes, THP-Plus Foster Care, or a foster family home) do not receive the benefit directly, but may receive part or all of the benefit from the provider as part of their TILP to develop increasing responsibility.²⁰

Q26: What placement types are eligible for the specialized care increment rate, provided to youth with additional needs?

A: Youth age 18 to 21 living in a foster family home, nonrelated legal guardian, NREFM or with an AFDC-FC funded relative caregiver may be eligible for a specialized care increment rate based on their assessed needs.²¹

Q27: Does a youth have to be continuing in foster care in order to receive services like Medi-Cal and Independent Living Program Services?

A: No. A youth who elects to exit foster care at age 18 and to forego the extended foster care benefits available under AB 12 remains eligible for Medi-Cal and Aftercare Independent Living Program Services up to age 21. In addition, these youth remain eligible for non-federally funded THP-Plus up to age 24; although, space in the program is not guaranteed.²²

¹⁸ Welf. & Inst. Code §§ 11401; 11402; 11461.

¹⁹ Welf. & Inst. Code § 11403.2(b).

²⁰ Welf. & Inst. Code § 11403(d).

²¹ Welf. & Inst. Code § 11461(e).

²² Welf. & Inst. Code § 10609.4; 11403.2(a)(3).

Foster Care After Age 18 – SPECIAL TOPICS

Q28: How does AB 12 impact youth on probation or youth who are under the supervision of the delinquency court? Will these youth be eligible for transitional foster care benefits under AB 12?

A: Youth who reach age 18 in a foster care placement who are on probation and supervised by the delinquency court (also known as “wards” of the court) are eligible for extended foster care services in the same manner as dependent youth. In addition, AB 12 provides mechanisms for certain wards to become dependents prior to their 18th birthday which would provide those youth with eligibility for transitional foster care benefits as other dependent youth are eligible. The court must set a hearing to determine if a ward who is in a foster care placement or who was a dependent child in a foster care placement at the time s/he became a ward should be transferred to dependency status. The court may order the transfer if the court finds that: (1) the youth no longer requires the supervision of the delinquency court (2) is at risk of abuse and neglect and (3) cannot be returned to the parental home safely. In order to ensure that all eligible wards have this opportunity, AB 12 requires that the delinquency court consider whether to transfer the youth’s case over to the dependency court at the status review hearing closest to the time when the youth turns 18 and at any hearing to terminate delinquency jurisdiction.²³

Q29: Who provides the supervision for a ward who elects to participate in extended foster care?

A: The county protocols established by WIC 241.1 shall include a process to determine which agency and court shall supervise the dependent whose 602 jurisdiction has been modified for the purpose of extended foster care.

Q30: What about the case of youth who are custodial parents. How does AB 12 provide for them?

A: Youth who are custodial parents have the same rights to participate in foster care after age 18 as all other youth. Under current law, a provider who is caring for a minor parent and her child is paid a foster care benefit that includes an amount for the care of both the minor parent and the child. This rate structure continues for nonminor parents after they turn 18. The caregiver of nonminor parent will continue to receive an “infant supplement” as well as the foster care payment.²⁴ If the nonminor parent lives in a Whole Family Home, the caregiver may be eligible for the \$200 for the Shared Responsibility Plan. In addition, if a nonminor parent elects to live in a Supervised Independent Living setting with her child, she would receive the basic rate for her own support plus the infant supplement for the care of her child.²⁵ Note, if the nonminor parent is not federally eligible for AFDC-FC and placed with a relative, the benefits are paid according to CalWORKs payment rules.

Q31: If the youth is a consumer of Regional Center Services, will the youth continue to receive dual agency rates and the supplemental rate for extraordinary care and supervision?

A: Yes, the dual agency and supplemental rates will apply to youth otherwise eligible for extended foster care who remain a dual agency Regional Center consumer.²⁶

Q32: Can a youth receive extended foster care benefits under AB 12 and Supplemental Security Income (SSI)?

A: A youth who meets the eligibility requirements for both extended foster care and SSI may be eligible to receive both at the same time, depending on the rules pertaining to offset between SSI and foster care benefits. SSI payments are reduced dollar-for-dollar by the amount of federal foster care

²³ Welf. & Inst. Code §§ 241.1; 727.2(i).

²⁴ Welf. & Inst. Code § 11465(d)(6).

²⁵ Welf. & Inst. Code § 11465(d)(6).

²⁶ Welf. & Inst. Code §11464.

benefits. A youth can receive both SSI and federal foster care payments only if the SSI benefit is higher than the foster care payment. If the federal foster care benefit exceeds the SSI benefit, then the youth would receive only the foster care benefit and the SSI benefits will be placed in suspense.

Because a youth will lose their SSI eligibility if they do not receive a SSI payment for 12 consecutive months, AB 12 allows youth between age 18 and 21 to have their foster care payment suspended for one month every 12 months receiving a SSI benefit in that month in order for them to remain SSI eligible.

Youth who are eligible for a state foster care benefits can receive both SSI and their SSI benefit as long as the foster care payment exceeds the SSI payment.

Youth who receive a SSI benefit that exceeds their foster care maintenance payment may remain in extended foster care, even though they do not receive any foster care payment. These youth will receive all the services, including case management, ILP, and court supervision, that all youth in extended care receive. However, many of these SSI eligible youth may choose to exit out of extended care because of the services and supports available in the community to SSI recipients.²⁷

Q33: Under AB 12, the extension from age 20 to 21 is subject to appropriation by the state legislature. When and how would this happen?

A: The final year of extension (from age 20 to 21) is subject to a budget appropriation by the state legislature. It is not automatic, as the first two years of the age extension are. The state legislature must take action. Until this action is taken by the Legislature, foster care in California is effectively extended only to age 20. Once the Legislature takes this action, it does not need to be taken again.

²⁷ Welf. & Inst. Code § 13754.

Kin-GAP – ELIGIBILITY

Q34: How does AB 12 change California’s current Kin-GAP program?

A: AB 12 makes several important changes to our existing Kin-GAP program. First, under AB 12, there will be two different subsidized guardianship programs. California will continue to have a Kin-GAP program funded with state-only dollars, for those non-federally eligible youth who, as dependents, were placed by juvenile court in an approved home of a CalWORKs funded relative. Youth who are federally eligible to IV-E while in foster care will participate in the federally-subsidized Kin-GAP program. The two programs will be nearly identical in terms of eligibility requirements, benefits, and other rules.²⁸

The five big changes to the existing Kin-GAP are: (1) due to changes in federal law, youth have to be residing with the relative for only 6 months prior to exiting foster care to Kin-GAP (previously it was 12 months); (2) Kin-GAP benefits are determined and adjusted periodically based on changed needs pursuant to a negotiated agreement (previously, Kin-GAP benefits were frozen at the same amount of what the youth was receiving in foster care the month before exiting to Kin-GAP); (3) youth can continue to receive Kin-GAP beyond age 18 and up to age 21 if certain conditions are met as discussed below (previously, Kin-GAP only went to age 18 or 19). (4) Kin-GAP now can be paid out of state, and (5) a child can enter Kin-GAP via the voluntary placement agreement process if juvenile court orders a guardianship at the WIC 360 hearing.²⁹

Q35: What are the basic eligibility requirements for a youth to receive Kin-GAP under AB 12?

A: There are four basic eligibility requirements for a youth to receive Kin-GAP benefits. The youth must (1) have been removed from his parental home and placed into foster care supervised by either the dependency or the delinquency court; (2) reside with an approved relative guardian for at least 6 consecutive months, (3) have a kinship guardianship established with that relative by juvenile court, and (4) have his or her court case dismissed by either the dependency court or the delinquency court at the same time or subsequent to the establishment of the guardianship.³⁰

Q36: Do all youth who are eligible for Kin-GAP benefits remain eligible after age 18 and up until age 21?

A: No. Kin-GAP benefits terminate at different times depending on what age the youth was when s/he exited from foster care to the Kin-GAP program. Youth who entered the Kin-GAP program prior to reaching 16 years old are eligible for Kin-GAP benefits until 18 or 19. These youth can continue to receive Kin-GAP after age 18 if they are expected to complete high school or an equivalent program before they turn 19. If they have this expectation, they can continue to receive Kin-GAP until they graduate or turn 19, whichever is sooner. In addition, effective January 1, 2011 a youth, regardless of age of entry into Kin-GAP, may continue to receive Kin-GAP up until age 21 if s/he has a physical or mental disability that warrants continuing assistance beyond age 18 and up until 21.

Effective January 1, 2012, for youth who enter the Kin-GAP program when they are 16 or older, the youth may be eligible for extended Kin-GAP benefits beyond age 18 and up until age 21 as long as the youth meets one of participation conditions described in Q3.

²⁸ Welf. & Inst. Code §§ 11360 *et seq.*; 11385 *et seq.*

²⁹ Welf. & Inst. Code §§ 11363; 11364; 11386; 11387

³⁰ Welf. & Inst. Code §§ 11363; 11386

Q37: What participation conditions apply in the Kin-GAP program for a youth to continue to receive Kin-GAP after age 18?

A: As with youth in foster care, a youth who entered the Kin-GAP program after age 16 can continue to receive Kin-GAP assistance until age 21 as long as the youth is doing ONE of the following:

1. Completing high school or equivalent program (i.e. GED); OR
2. Enrolled in college, community college or a vocational education program; OR
3. Participating in a program designed to remove barriers to employment; OR
4. Employed at least 80 hours a month; OR
5. Unable to do one of the above requirements because of a medical condition.³¹

Q38: Kin-GAP doesn't include ongoing case management and agency supervision. How will it be determined that youth age 18 to 21 in extended Kin-GAP are meeting one of the five participation conditions?

A: The relative guardian is responsible for reporting changes in the needs of the child or the circumstances relating to the receipt of Kin-GAP. However, the county placing agency or tribe remains responsible for ensuring that the youth meets the eligibility criteria for receipt of Kin-GAP.³²

Q39: How is the amount of the Kin-GAP benefit determined?

A: The amount of the Kin-GAP benefit, as well as the other services and assistance the youth is entitled to receive, is determined through a negotiation between the relative guardian and the county child welfare agency, probation department or Indian tribe. The benefit amount, as well as the additional services and assistance the child will receive, is set forth in a written agreement that can be adjusted periodically, but no less than once every two years, as the needs of the child and the circumstances of the guardian change. The negotiated Kin-GAP benefit cannot exceed the amount of the age-related, state-approved basic foster care maintenance payment and any applicable special care increment that the youth would have received if s/he had remained in foster care.³³ If the youth is a parent of a child placed in the same home, the teen parent rates apply. If the youth is a regional center consumer, the dual agency rates apply.

Q40: Can a youth who is participating in Kin-GAP and is over age 18 receive the Kin-GAP payment directly?

A: Yes. As with youth participating in the foster care program after age 18, a youth who entered Kin-GAP after age 16 and who is participating in the extended Kin-GAP program at 18 or older may receive some or all of the Kin-GAP payment directly.³⁴

Q41: How will the conversion of current state-only Kin-GAP cases to the new federal and state programs happen?

The conversion of state-only Kin-GAP cases into either the federally-subsidized or new state funded program will begin January 1, 2011. As current Kin-GAP cases come up for their annual review, they will be assessed to determine if the youth was receiving a federal AFDC-FC payment prior to entering the Kin-GAP program. If the youth was receiving a federal foster care payment prior to entering Kin-GAP, then the case can be transitioned into the new federal Kin-GAP program. If the youth was receiving CalWORKs as a dependent placed with an approved relative, the case will be transitioned into the new state funded Kin GAP program. The case will be assigned to a county social worker, who will inform the relative guardian of the benefits of transitioning to the new programs, including the right to negotiate the amount of Kin-GAP assistance and to re-negotiate rates as the needs of the

³¹ Welf. & Inst. Code §§ 11363(d); 11386(h); 11403(b) (effective January 1, 2012).

³² Welf. & Inst. Code § 11364(e)(f).

³³ Welf. & Inst. Code §§ 11364; 11387.

³⁴ Welf. & Inst. Code § 11364(g); 11386(h).

child and circumstances of the guardian change over time. The transition from the current Kin-GAP program to the new federal or state Kin-GAP programs should be seamless for the relative guardian with no disruption in assistance.³⁵

Q42: When does the new Kin-GAP program under AB 12 get implemented?

Different provisions of the new Kin-GAP program get implemented at different times.

- The conversion of state-only Kin-GAP cases into new federal and state Kin-GAP programs will begin January 1, 2011 and continue for a year, following the annual review schedule of the current Kin-GAP cases.³⁶
- Starting January 1, 2011, new applications for Kin-GAP benefits will follow the new program rules described in Q34.
- Starting January 1, 2011, youth may continue to receive Kin-GAP until age 21 if the youth has a mental or physical condition that warrants the continuation of assistance..
- The provision permitting youth who entered the Kin-GAP program at age 16 or older to continue to receive Kin-GAP benefits after age 18 and up to age 21 if they meet the education or employment requirements will be implemented starting January 1, 2012 using the identical implementation timeline that is in place for youth participating in the extended foster care program.

³⁵ Welf. & Inst. Code § 11378.

³⁶ Welf. & Inst. Code §§ 11378; 11363(c)(2); 11363(d)