

Par.1. **Material Transmitted and Purpose** – Transmitted with this Manual Letter is Service Chapter 623-10, Subsidized Guardianship Program manual, which has been revised. Changes are shown with the words struck through and new language underscored. This manual letter supersedes PI-13-14, Subsidized Guardianship Program Changes.

The grant amount has been **revised**.

623-10-01-10 - Overview - Subsidized Guardianship Program

Court ordered guardianship assign broad responsibilities for the child to the adult guardian. The court determines the nature and extent of the parents continuing relationship to the child.

- Maximum of 30 children for the first year of the biennium (1999-2001).
- Population: Youth age 16 – 18 will be given priority. Sibling groups which include a youth in the 16 – 18 age group will also be given priority consideration.
- Grant of ~~\$490~~ \$509.60/month/child, or \$16.75/day.
- Assistance in paying for the expenses of the one-time non-recurring legal process for appointment as guardian.

Eligible population group age 12 and older has been **added**.

623-10-05-01 - Eligible Population Group

1. Foster youth age 12 and older, where reunification and adoption has been ruled out as the permanency plan. Siblings will also be included if one member of the sibling group is 12+.
- ~~1.~~ 2. Youth who are legally free for adoption and do not wish to or cannot be adopted.
- ~~2.~~ 3. Youth in temporary custody whose parents are incapacitated or unwilling to have anything to do with planning for the child and whose parental rights will not be terminated.

- ~~3.~~ 4. Eligibility is limited to children in the state foster care system for at least six months*, for whom the state has responsibility for maintenance payments.

Note that priority is given to youth 16+. Sibling groups will also be given priority status if one member of the group is 16+.

~~(*An exception to the six month requirement can be requested and granted under certain circumstances.)~~ Exceptions will not be allowed due to fiscal constraints.

Number 3 has been **added** regarding guardianship subsidy of less than \$3.00 and **no** exceptions may be requested.

623-10-05-10 - Excluded from Consideration of Subsidized Guardianship

1. Medical subsidies.
2. Children who have not been in the state foster care system at least six months.*
3. Children who would receive a guardianship subsidy of less than \$3.00 per day, after monthly SSI/SSA benefits, are deducted.

Subsidy for guardianship must be approved by the custodian, (county, DJS, tribe, Executive Director), county director, regional supervisor, and the state office. If demand for subsidy exceeds resources, CFS will enlist the assistance of a review team to prioritize requests.

~~(* An exception can be requested and granted under certain circumstances.)~~

The second paragraph has been **deleted**.

623-10-10-05 - Prior Approval for Subsidized Guardianship Eligibility

Eligibility of the child for subsidized guardianship must be determined prior to the filing of the guardianship petition. This is done on the "Subsidized Guardianship Contingent Approval Request" form. The contingent approval request form includes information on the child's income and assets. The social worker may need to assist the prospective guardian in completing this form.

~~Any request for an exception to the policy limiting eligibility to children who have been in the state foster care system for at least 6 months must be submitted to the State Office prior to completing the "Subsidized Guardianship Contingent Approval Request."~~

All other sources of income available to the child should be reviewed and considered prior to filing the contingent approval form. The "Subsidized Guardianship Contingent Approval Request" is signed by all parties and forwarded to CFS.

If approved for the subsidy, the child's guardianship assistance will be based on the current payment rate for subsidized guardianship, taking into consideration the child's income and assets.

It is important to keep in mind that the guardianship subsidy rate is a flat rate which ~~will~~ may not be adjusted when foster care rates change.

Deleted new program funding information.

623-10-10-20 - Home Assessment is Furnished to the Court

~~This is a new program with no funding for staff resources.~~ Agencies will determine how to accomplish the guardianship home assessment required by law to be furnished to the court.

If the home to be studied for guardianship is the child's current foster home, the agency may wish to furnish to the court the most recent foster home licensing study together with child specific issues and the child's relationship to the prospective guardian and others in the home. Please refer to the "Guardianship Assessment Outline," (Addendum), for guidelines on the child specific and child relationship issues.

The subsidy rate has been **updated**.

623-10-15-01 - Subsidy Rate

The subsidy rate is computed on a monthly basis ~~at of \$490-\$509.60~~. The subsidy is paid based on a daily rate of ~~\$16.11~~ 16.75. Partial months at the beginning and end of the subsidized guardianship are prorated.

Revised language regarding termination of guardianship subsidy.

623-10-15-10 - Termination of Subsidy: Guardianship Subsidy will Cease Under the Following Conditions

1. Child reaches age 18. ~~and is not in school.*~~
2. Child custody or guardianship is awarded to another person.
3. Child is incarcerated.
4. Child is no longer living in the home.
5. Child dies.
6. Guardianship terminates for any reason.
7. CFS does not have guardian's current address, and mail is undeliverable.

The guardian has a duty to notify NDDHS within 30 days of any of the above and to return any guardianship subsidy payment received for any days after the guardianship has terminated.

~~* If the ward/guardianship relationship continues after the order appointing the guardian terminated at age 18, and the ward continues in school, the subsidy may be continued. The ward and guardian have the opportunity to apply for continuation of the subsidy, prior to its expiration at age 18. Refer to form: "Application for Continued Subsidy After Age 18," SFN 1830.~~

NOTE:

Effective 7/1/13, guardianship subsidies will end at the child's 18th birthday. Subsidies that are currently being paid on behalf of former wards over the age of 18 will continue until the case is terminated for reasons listed in this manual chapter.

Corrected Century Code cite.

623-10-20-10 - Rights and Responsibilities of Guardian

N.D.C.C. § 27-20-48.~~1(2)~~38-2 states that an individual appointed as a legal guardian has:

1. If there is a parent with remaining parental rights, the rights of a legal custodian; and
2. If there is no parent with remaining parental rights, the rights of a legal custodian and the authority to consent to the child's adoption, marriage, enlistment in the armed forces of the United States, and surgical and other medical treatment.

Revised language regarding termination.

623-10-20-40 - Termination of the Guardian/Ward Relationship

A guardian's authority and responsibility terminates upon:

- Death of guardian or ward.
- Resignation of the guardian; but resignation of the guardian must be approved by the court, i.e. court order.
- Removal of the guardian by court order.
- Adoption of the ward.
- Marriage of the ward.
- Ward's attainment of majority (age 18) ~~and not in school.*~~

~~* If youth continues in school after age 18 and maintains relationship with former guardian, ward and guardian have opportunity to apply to continue subsidy.~~

If a guardian wants to terminate the guardianship, the guardian must petition the court. The guardian will have to state reasons for seeking termination and facts showing termination should be approved.

Par. 2. **Effective Date** – July 15, 2013