§4038-D. Guardianship subsidy

1. Establishment of program; use of federal funds. There is established in the department the Guardianship Subsidy Program, referred to in this section as "the program." For the purposes of this section, the department is authorized to use funds that are appropriated for child welfare services and funds provided under the United States Social Security Act, Titles IV-B and IV-E, or under any waiver that the department receives pursuant to those Titles.
[PL 2005, c. 372, §6 (NEW).]

2. Eligibility for guardianship subsidy payments. Subject to rules adopted to implement this section, the department may provide subsidies for a child who is placed in a permanency guardianship or in a similar status by a Native American tribe, when reasonable but unsuccessful efforts have been made to place the child without guardianship subsidies and if the child would not be placed in a permanency guardianship without the assistance of the program.
[PL 2011, c. 402, §10 (AMD).]

3. Definition of "special needs child."

[PL 2011, c. 402, §11 (RP).]

4. Amount of guardianship subsidy. The amount of a guardianship subsidy is determined according to this subsection.

A. The amount may vary depending upon the resources of the permanency guardian, the needs of the child and the availability of other resources. [PL 2011, c. 402, §12 (AMD).]

B. The amount may not exceed the total cost of caring for the child if the child were to remain in the care or custody of the department, without regard to the source of the funds. [PL 2005, c. 372, §6 (NEW).]

C. [PL 2011, c. 402, §12 (RP).]

D. Subject to rules adopted by the department, expenses of up to $2,000 per child may be reimbursed. This reimbursement is for legal expenses required to complete the permanency guardianship, including attorney's fees and travel expenses. [PL 2011, c. 402, §12 (AMD).]
[PL 2011, c. 402, §12 (AMD).]

5. Duration of guardianship subsidy. A guardianship subsidy may be provided for a period of time based on the needs of a child. The subsidy may continue until the termination of the permanency guardianship or until the permanency guardian is no longer caring for the child, at which time the guardianship subsidy ceases. If the child has need of educational benefits or has a physical, mental or emotional disability, the guardianship subsidy may continue until the child has attained 21 years of age if the child, the parents and the department agree that the need for care and support exists.
[PL 2021, c. 348, §31 (AMD).]

6. Administration of program. Applications for the program may be submitted by a prospective permanency guardian. A written agreement between the permanency guardian entering into the program and the department must precede the order creating the permanency guardianship, except that an application may be filed subsequent to the creation of the permanency guardianship if there were facts relevant to the child's eligibility that were not presented at the time of placement or if the child was eligible for participation in the program at the time of placement and the permanency guardian was not apprised of the program.
[PL 2005, c. 372, §6 (NEW).]

7. Annual review required. If the subsidy continues for more than one year, the need for the subsidy must be reviewed annually. The subsidy continues regardless of the state in which the permanency guardian resides, or the state to which the permanency guardian moves, if the permanency guardian continues to be responsible for the child.

[PL 2005, c. 372, §6 (NEW).]

8. Death of permanency guardian.
[PL 2011, c. 402, §14 (RP).]

9. Adoption of rules. The department shall adopt rules for the program consistent with this section. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.
[PL 2005, c. 372, §6 (NEW).]

10. Permanency guardian's eligibility for public benefits. Except as required by federal law or regulation, the guardianship subsidy may not be counted as resources or income in the determination of the permanency guardian's eligibility for any public benefit.
[PL 2005, c. 521, §3 (AMD).]

11. Application to pending cases. The department may provide a guardianship subsidy pursuant to this section to a child who is the subject of a child protection proceeding pending on September 17, 2005 or to a child who is the subject of a child protection proceeding commenced on or after September 17, 2005.
[PL 2005, c. 521, §4 (NEW).]

SECTION HISTORY

PL 2005, c. 372, §6 (NEW). PL 2005, c. 521, §§3,4 (AMD). PL 2011, c. 402, §§10-14 (AMD). PL 2021, c. 348, §31 (AMD).

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