

WYOMING DEPARTMENT OF FAMILY SERVICES	CHAPTER: Permanency POLICY: Legal Guardianship Assistance/Subsidy Agreements POLICY NUMBER: 3.3.2
EFFECTIVE DATE: January 14, 2013	Current: 1/13 Revised: 10/02, 3/10, 1/13 Original: 2/99

A. Purpose

The Department of Family Services (DFS) has chosen to implement a legal guardianship assistance/subsidy program. If the legal guardian’s financial concerns are the only barrier to processing a legal guardianship, DFS may negotiate a legal guardianship assistance/subsidy.

B. Procedure

1. DFS cannot provide a legal guardianship assistance/subsidy for a child(ren)/youth who was not in DFS custody when the legal guardianship was established.
2. The DFS Caseworker and/or supervisor shall have the prospective legal guardian(s) submit an *Application for Guardianship Subsidy and/or Waiver (F-SS47)*, if not already submitted, when the permanency goal becomes legal guardianship and the prospective legal guardian(s) is identified.
3. The DFS Caseworker and/or Supervisor shall develop a *Guardianship Assistance Agreement (F-SS47a)* with the prospective legal guardian(s) if he/she has applied for a legal guardianship assistance/subsidy. The *Guardianship Assistance Agreement (F-SS47a)* shall be completed and signed before the legal guardianship is finalized. Legal guardianship assistance/subsidy shall not be paid if the *Guardianship Assistance Agreement* was not finalized prior to finalization of the legal guardianship.
4. DFS shall refer to the current **FSD Rate Memo** to find the assistance/subsidy payment range that can be negotiated with the prospective legal guardian. The following procedure shall be used to negotiate the amount of the legal guardianship assistance/subsidy.
 - a. The DFS Caseworker shall complete the *Needs Based Care Assessment for Children in Foster Care - Age One Day Through 12 Years (F-SS66)* or the *Needs Based Care Assessment for Children in Foster Care - Ages 13 Years and Over (F-SS67)* with the prospective legal guardian if the child(ren)/youth has special needs to determine if there is a “difficulty of care” level, and if applicable, the level of care needed.
 - b. DFS shall calculate the maximum range of the legal guardianship assistance/subsidy that can be negotiated by using the **FSD Rate Memo** to find the “legal guardianship assistance/subsidized” rate, and if applicable, add the Level of Need rate (as determined in B.4.a.).
 - c. DFS shall deduct any income that is or may be available to the child(ren)/youth including, but not limited to, child support, social security, and/or veteran’s administration from the maximum range (as found in B.4.b).
 - d. The range that can be negotiated for the legal guardianship assistance/subsidy is from zero dollars to the maximum range as determined in B.4.c. Refer to the **FSD Rate Memo** and DFS

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District Manager for any other approval requirements before finalizing the amount of the legal guardianship assistance/subsidy. Under no circumstances shall the legal guardianship assistance/subsidy exceed the foster care maintenance payment which would have been paid on behalf of the child(ren)/youth if the child(ren)/youth had remained in a foster family home.

- e. The *Guardianship Assistance Agreement (F-SS47a)* shall be completed by the legal guardian(s) and the DFS Caseworker and shall be signed by all parties, including the DFS District Manager, prior to finalization of the legal guardianship.
5. A legal guardian(s) may apply for TANF/POWER or for the legal guardianship assistance subsidy for the child(ren)/youth, but may not receive both. The legal guardian(s) should apply for whichever program will best meet the needs of the child(ren)/youth.
 6. In many cases child(ren)/youth in a legal guardianship will be eligible for Medicaid or other state medical programs. The DFS Caseworker shall refer families taking legal guardianship of child(ren)/youth to the benefit specialist staff in the local DFS office to apply for medical assistance.
 7. Once a DFS legal guardianship assistance /subsidy is established, the agreement shall remain in effect as long as the legal guardian(s) is:
 - a. Using the assistance/subsidy to provide for the care and support of the child(ren)/youth; and/or,
 - b. Following all requirements of the *Guardianship Assistance Agreement* which includes an annual review of the needs of the child(ren)/youth in care of the legal guardian(s).
 8. The DFS legal guardianship assistance/subsidy may be suspended or terminated if the legal guardian(s) is not using the legal guardianship assistance/subsidy to provide for the care and support of the child(ren)/youth and/or meeting all of the requirements in the *Guardianship Assistance Agreement*.
 9. The DFS caseworker shall assure the *Annual Review Form for Subsidized Guardianship (F-SS48)* is completed annually. Prior to renewing the subsidy, the DFS caseworker and DFS District Manager shall review the *Guardianship Assistance Agreement (F-SS47a)* and sign the *Annual Review Form for Subsidized Guardianship (F-SS48)*. The *Guardianship Assistance Agreement* may be adjusted at the annual review following the negotiation procedures.
 10. Funding for the state funded legal guardianship assistance/subsidy program is contingent upon the availability of state money and is subject to termination at the annual review if funds are not available.
 11. DFS cannot fund the adoption of the child(ren)/youth or enter into an adoption subsidy agreement once a legal guardianship has been finalized and/or the child(ren)/youth is no longer in DFS custody.