



Federal Child Welfare Manual Update

8.5A Guardianship Assistance Program, Agreements

2. Question: *(new 2.25.11)*

For the Guardianship Assistance Program (GAP), does a title IV-E agency have the flexibility to establish a cap on specific components (e.g., attorney fees) of the nonrecurring expenses that it must pay in connection with obtaining legal guardianship of the child?

Answer: No. Section 473(d)(1)(B)(iv) of the Social Security Act provides that a GAP agreement must specify, among other things, that the title IV-E agency will pay the total cost of nonrecurring expenses associated with obtaining legal guardianship of the child, to the extent the total cost does not exceed \$2,000. Such language does not permit a title IV-E agency the discretion to establish such a cap on specific items that qualify as nonrecurring expenses.

- **Source/Date:** 2/24/2011
- **Legal and Related References:** Social Security Act – Section 473(d)(1)(B)(iv)

3. Question: *(new 2.25.11)*

May a title IV-E agency include a provision in the Guardianship Assistance Program (GAP) agreement terminating payments if the guardian and the child move to another country?

Answer: Yes. The title IV-E agency has the flexibility to include a provision in the GAP agreement terminating payments if the guardian and the child move to another country. ACYF-CB-PI-10-11 states that a title IV-E agency has broad discretion to establish how it will evaluate, reevaluate, or terminate GAP agreements. The PI states, [f]or example, a title IV-E agency may establish agreements that: . . . allow the agency to suspend or discontinue guardianship assistance payments when a certain event occurs. Accordingly, a title IV-E agency may provide in the GAP agreement that moving to another country is an event that could cause the suspension or discontinuation of GAP payments.

- **Source/Date:** 2/24/2011
- **Legal and Related References:** Social Security Act – Section 473(d)(1), ACYF-CB-PI-10-11

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http://www.acf.hhs.gov/cwpm/programs/cb/laws_policies/laws/cwpm/policy.jsp?idFlag=8

U.S.C. refers to the United States Code
C.F.R. refers to the Code of Federal Regulations



To go to these questions directly in the Child Welfare Policy Manual, go to:
http://www.acf.hhs.gov/cwpm/programs/cb/laws_policies/laws/cwpm/policy_dsp.jsp?citID=390

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