

# A COMPARISON OF FINANCIAL BENEFITS ADOPTION, LEGAL GUARDIANSHIP, AND FOSTER CARE



## **Chart 1 considers and compares the following factors, in regards to Adoption, Legal Guardianship (Relative/Non-Relative) and Long Term Foster Care:**

1. Eligibility For Financial Support/Determination of Rate
2. Payment Amount/Basic Rate
3. Special Needs Allowance
4. Consideration of Family Circumstances
5. Clothing Allowance
6. Financial Recertification
7. Tax Dependency
8. Child's Misconduct/Destruction of Property
9. Medical Insurance
10. Social Security (SSA-Dependent or Survivor Benefits)
11. Social Security Benefits (SSI-Based on the Child's Eligibility)
12. Residential Treatment
13. Financial Assistance/Death of Caregiver
14. Financial Assistance/Child's Residence/Moves Out of County
15. Financial Assistance/Child's Residence/Moves Out of State/Country
16. ILSP (Independent Living Skill Program) Eligibility
17. Eligibility for Chafee Grant Program
18. Eligibility for Transitional Housing Placement Program (THPP)
19. Eligibility for ILSP Housing Assistance Programs
20. Eligibility for Financial Assistance for Higher Education
21. Tax Credit
22. Dual Agency Children

**Citations of the laws and regulations supporting the information  
in the chart are available upon request.**

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<p><b>1. ELIGIBILITY FOR FINANCIAL SUPPORT/ DETERMINATION OF RATE</b></p>	<p>Eligibility for funding is based on factors related to the child, including: special needs, age 3 or over, sibling group, adverse parental background, and/or racial or ethnic minority.<sup>1</sup> There is no means test for families.<sup>2</sup> The AAP benefit is a negotiated amount based on the needs of the child and the circumstances of the adoptive family.<sup>3</sup> The responsible public agency negotiates the amount of the benefit and determines the amount based on AAP regulations. The AAP payment may not be more than the child would have received in family foster care.<sup>4</sup> Adoptive parents determine how the AAP funds are spent.<sup>5</sup></p>	<p>Some relative guardians are eligible.<sup>6</sup> The payment rate is based on the rate the child was receiving in foster care and is set by state statute.<sup>7</sup> A special care increment is available in the same amount that the child was receiving while in foster care.<sup>8</sup> Child must be placed in the relative home for 12 consecutive months.<sup>9</sup> The legal guardian has the obligation to spend Kin-GAP funds for the benefit of the child but is not financially liable to support the child with the guardian's own funds.</p>	<p>All non-relative guardians are eligible.<sup>10</sup> The payment is based on the child's age, and the rate is set by regulation.<sup>11</sup> A special care increment may be individually applied.<sup>12</sup> The legal guardian has the obligation to spend funds for the benefit of the child but is not financially liable to support the child with the guardian's own funds.</p>	<p>When a child is in a county licensed foster home, or with a relative and is "federally eligible", foster care funds are based on the child's age.<sup>13</sup> A special care increment may be individually applied.<sup>12</sup> If the child is in a relative placement and does not meet federal eligibility guidelines, the relative can apply for CALWORKS.<sup>14</sup> The Foster Family Agency (FFA), group home, or residential treatment rate applies when the child is in a certified FFA home, group home, or residential treatment program &amp; these rates do not include a special care increment.<sup>15</sup></p>

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<b>2. PAYMENT AMOUNT- BASIC RATE</b>	The basic payment amount is a negotiated amount based on the needs of the child and circumstances of the adoptive family, but it cannot be more than what the child would have received in family foster care (refer to Foster Family Homes Schedule of Basic Rates). <sup>16</sup>	Kin-GAP payment equals 100 percent of the rate that was paid on behalf of the child while he/she was in foster care, including any specialized care increment the child was receiving. <sup>17</sup>	The basic payment amount is based on the child's age, based on approved foster family home care rates set by the state (refer to Foster Family Homes Schedule of Basic Rates). <sup>18</sup>	The payment amount is based on the type of placement as described above (refer to Foster Family Homes Schedule of Basic Rates). <sup>19</sup> If the child in foster care is not found to be federally eligible, and is placed with a relative caregiver, then the relative can apply for CalWorks funds to support the child as a 'non-needy caretaker'. <sup>20</sup>
<b>3. SPECIAL NEEDS ALLOWANCE</b>	The AAP payment amount is limited to the age related, state approved foster family home care rate, and any specialized care increment for which the child would have been eligible had she or he remained in foster care. <sup>21</sup> The specialized care increment is based on the individual needs of the child and what the adoptive parent does to meet those needs. <sup>22</sup>	The specialized care increment is based on the individual needs of the child and what the Legal Guardian does to meet those special needs. These must be in place one month prior to dismissal of dependency. This specialized care increment is locked at the amount that the child was receiving in the month prior to the guardianship being established and continues for as long as the child receives Kin-GAP. <sup>23</sup>	Specialized care increment is based on the individual needs of the child and what the Legal Guardian does to meet those special needs. <sup>24</sup>	In county licensed homes or relative placements with foster care funding, the specialized care increment is based on the individual needs of the child and what the caregiver does to meet those special needs. <sup>25</sup> A specialized care increment is not available for FFA, group home placements, or residential treatment placements as these programs have a different rate setting structure; consideration of the special needs of the child are built into the rates. Specialized care increments are not available for relative placements funded through CalWorks.

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<b>4. CONSIDERATION OF FAMILY CIRCUMSTANCES</b>	Circumstances of the family are considered in determining the AAP amount, however no means test may be applied. <sup>26</sup>	Family circumstances are not considered in determining the payment amount. <sup>27</sup>	Family circumstances are not considered in determining the payment amount.	Family circumstances are not considered in determining the payment amount
<b>5. CLOTHING ALLOWANCE</b>	No clothing allowance is provided.	An annual clothing allowance is provided. <sup>28</sup>	An annual clothing allowance is provided. <sup>29</sup>	An annual clothing allowance is provided for youth in county licensed foster homes and in the homes of relatives receiving funds through foster care. <sup>30</sup>
<b>6. FINANCIAL RECERTIFICATION</b>	AAP must be recertified at least every 2 years. <sup>31</sup>	The relative or kin guardian must complete a monthly status report and recertify annually.	Guardian must develop a written assessment and case plan with the agency, and the assessment and case plan must be reviewed at least every six months. <sup>32</sup>	The Child Welfare Worker recertifies the child's eligibility annually. <sup>33</sup>
<b>7. TAX DEPENDENCY</b>	The adopted child is generally a tax dependent of the adoptive parents. <sup>34</sup> Families should consult with their tax consultant for direction.	The child may be an allowable tax dependent of the Relative Guardian. <sup>35</sup> Families should consult with their tax consultant for direction.	The child may be an allowable tax dependent of the Legal Guardian. <sup>36</sup> Families should consult with their tax consultant for direction.	The child may be an allowable tax dependent of the foster parents. Families should consult with their tax consultant for direction. <sup>37</sup>
<b>8. CHILD'S MISCONDUCT/ DESTRUCTION OF PROPERTY</b>	An adoptive parent is liable to the same extent as a birth parent. <sup>38</sup> An attorney should be consulted regarding specific situations.	A Legal Guardian is liable to the same extent as a birth parent. <sup>39</sup> An attorney should be consulted regarding specific situations.	A Legal Guardian is liable to the same extent as a birth parent. <sup>40</sup> An attorney should be consulted regarding specific situations.	The foster parent is not legally liable for the behavior of the child. <sup>41</sup>

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<b>9. MEDICAL INSURANCE</b>	Children eligible for AAP are eligible for MediCal. <sup>42</sup> The family may also enroll child under their private health insurance; if enrolled, private insurance is used first. MediCal is still provided, and may offer some benefits that the private insurance does not cover.	Child is eligible for MediCal. The family may also enroll child under their private health insurance; if enrolled, private insurance is used first. MediCal is still provided, and may offer some benefits that the private insurance does not cover. <sup>43</sup>	Child is eligible for MediCal. <sup>44</sup> The family may also enroll child under their private health insurance; if enrolled, private insurance is used first. MediCal is still provided, and may offer some benefits that the private insurance does not cover.	Child is eligible for MediCal. <sup>45</sup>
<b>10. SOCIAL SECURITY (SSA-DEPENDENT OR SURVIVOR BENEFITS)</b>	When an adopted parent(s) retires, becomes unable to work due to disability, or dies, the adoptive child may be eligible for dependent or survivor benefits. <sup>46</sup> The adoptive family directly receives the funds for the care of the child.	When the birth parent(s) retires, becomes unable to work due to disability, or dies, the child may be eligible for dependent benefits or survivor benefits. <sup>47</sup> If the SSA amount exceeds the Kin-GAP rate, and dependency is dismissed, the Kin-GAP funds may be ended and the full SSA amount can be paid to the Legal Guardian.	When the birth parent(s) retires, becomes unable to work due to disability, or dies, the child may be eligible for dependent benefits or survivor benefits. <sup>48</sup> The Legal Guardian may choose to receive social security benefits or foster care benefits; in some cases can receive benefits concurrently.	SSA determines who the payee is for dependent children when the birth parent is disabled or dies. If the county is the representative payee, the SSA benefits can be used to offset the cost of foster care. The SSA funds must be used in the best interest of the child. The county establishes a maintenance account. The Child Welfare Worker is responsible to use funds to meet the child's needs. Maintenance accounts may not exceed \$2000.

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<b>11. SOCIAL SECURITY BENEFITS (SSI-BASED ON THE CHILD'S ELIGIBILITY)</b>	An adopted child may be eligible for Supplemental Security Income (SSI) benefits due to a disability. <sup>48</sup> The adoptive family directly receives these funds, for the care of the child. (Note: SSI eligibility is based on need and takes account of the income and resources of the adoptive parent in determining eligibility.)	A child receiving Kin-GAP benefits may be eligible for Supplemental Security Income (SSI) benefits due to a disability. The Social Security Administration does not consider the Kin-GAP benefits as income to the child for the purpose of determining eligibility for SSI or the amount of the SSI benefit.	A child receiving non-related legal guardian benefits may be eligible for SSI benefits due to a disability. The Social Security Administration does not consider the non-related legal guardian benefits as income to the child for purposes of determining eligibility for SSI or the amount of the SSI benefit. However, state law considers the SSI benefit as income to the child in determining the amount of the AFDC-FC benefit.	A child receiving AFDC-FC benefits may be eligible for SSI benefits due to a disability. However, if the child is receiving federal foster care benefits, then the amount of the foster care benefit is taken into account in determining whether the child is eligible for SSI benefits and the amount of the SSI benefit. The child can receive both federal foster care and SSI benefits concurrently, but the SSI benefit is offset dollar for dollar by the amount of the federal foster care benefit. If the child is not eligible for federal foster care benefits, then the Social Security Administration does not consider the AFDC-FC benefit in determining eligibility for SSI or the amount of the SSI benefit. However, state law considers a child's receipt of SSI benefits in determining the amount of the AFDC-FC benefit. Counties are permitted to supplement the SSI benefit with AFDC-FC benefits for those children that are not eligible for federal foster care. <sup>49</sup>



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<b>12. RESIDENTIAL TREATMENT</b>	AAP covers the cost of the state approved rate for group home placement or residential treatment for which child is eligible, up to 18 months per episode. <sup>50</sup>	To access funds for group home placement or residential treatment, guardianship may need to be rescinded and/or dependency reinstated.	To access funds for group home placement or residential treatment, guardianship may need to be rescinded and/or dependency reinstated.	Funding is provided for placement in group home or residential treatment, based on child's eligibility, and the state approved rate. <sup>51</sup>
<b>13. FINANCIAL ASSISTANCE/ DEATH OF CAREGIVER</b>	AAP funding can only be paid to an adoptive parent. AAP funding will end upon death of the adoptive parent(s). <sup>52</sup> AAP can be re-initiated if the child is adopted again.	Guardianship funding terminates in the event of death of the guardian(s); however, Kin-GAP Guardianship benefits may continue if there is a successor Guardian. <sup>53</sup>	Guardianship funding terminates in the event of death of the guardian(s). However, FC Guardianship benefits continue if there is a successor non-related legal guardian.	The Social Services Agency continues to be responsible for the financial care and placement needs of the child upon the death of the foster parent(s) or caregivers.
<b>14. FINANCIAL ASSISTANCE/ CHILD'S RESIDENCE/ MOVES OUT OF COUNTY</b>	The adoptive parents solely determine residence. <sup>54</sup> AAP funding is paid to family regardless of where adoptive families choose to live-in another county, another state, or another country. <sup>55</sup>	Guardians have the right to move out of county, but must notify Court in writing. <sup>56</sup>	Guardians have the right to move out of county, but must notify Court in writing. <sup>57</sup>	Legal residence is determined by residence of birth parents (However, the child is eligible to attend school in the jurisdiction where he or she is placed). <sup>58</sup> Courtesy supervision is arranged when a child moves w/ caregiver out of county. Court & the Agency determine where child lives.

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<b>15. FINANCIAL ASSISTANCE/ CHILD'S RESIDENCE/ MOVES OUT OF STATE/COUNTRY</b>	The adoptive parents solely determine residence. <sup>59</sup> AAP funding is paid to family regardless of where adoptive families choose to live: in another county, another state, or another country. <sup>60</sup>	Court permission must be obtained to move out of state. If Guardian moves out of state, they are no longer eligible for Kin-GAP funding from California. Guardianship and/or funding may need to be re-established in the new state/country, and is subject to the new state or country's laws and eligibility rules.	Court permission must be obtained to move out of state. Guardianship and/or funding may need to be re-established in the new state/country, and is subject to the new state or country's laws and eligibility rules.	Legal residence is determined by residence of birth parents. Courtesy supervision is arranged when a child moves w/ caregiver out of county or out of state. Interstate Compact Program rules must be followed when a child moves out of state and licensing/ certification procedures for that state must be followed, in order for payment to be made to caregiver by Agency. <sup>61</sup>
<b>16. ILSP (INDEPENDENT LIVING SKILL PROGRAM) ELIGIBILITY</b>	Only those youth adopted after their 16 <sup>th</sup> birthday are eligible for all ILSP programs, until age 21, <u>except</u> housing assistance programs (see section below on Higher Education).	Youth receiving Kin-GAP benefits are eligible for all ILSP programs beginning at age 16 until age 21 (see section below on Higher Education) regardless of when the guardianship was established. <sup>62</sup> However, the youth must still be in the Legal Guardianship when they turn 16 in order to qualify for ILSP services.	Youth are eligible for all ILSP programs beginning at age 16 until age 21 (see section below on Higher Education) regardless of when the guardianship was established. <sup>62</sup> However, the youth must still be in the Legal Guardianship when they turn 16 in order to qualify for ILSP services.	Youth who are between the ages of 15 1/2 and 21 who are currently in an out-of-home placement are eligible for all ILSP programs until age 21, including housing assistance programs (see section below on Higher Education). <sup>62</sup>



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<b>17. ELIGIBILITY FOR CHAFEE GRANT PROGRAM</b>	Only those youth in foster care at time of their 16 <sup>th</sup> birthday and adopted after, are eligible for Chafee Grant funding. <sup>63</sup> Chafee Grant provides up to \$5000 in free money (no pay back required) while youth is in college. Amount awarded depends on cost of the college. Youth must receive Chafee funds prior to 21 <sup>st</sup> birthday; eligibility continues to 23 <sup>rd</sup> birthday.	Only those youth in foster care at time of their 16 <sup>th</sup> birthday and in Legal Guardianship after, are eligible for Chafee Grant funding. Chafee Grant provides up to \$5000 in free money (no pay back required) while youth is in college. <sup>64</sup> Amount awarded depends on cost of the college. Youth must receive Chafee funds prior to 21 <sup>st</sup> birthday; eligibility continues to 23 <sup>rd</sup> birthday.	Only those youth in foster care at time of their 16 <sup>th</sup> birthday and in Legal Guardianship after, are eligible for Chafee Grant funding. Chafee Grant provides up to \$5000 in free money (no pay back required) while youth is in college. <sup>65</sup> Amount awarded depends on cost of the college. Youth must receive Chafee funds prior to 21 <sup>st</sup> birthday; eligibility continues to 23 <sup>rd</sup> birthday.	Only those youth in foster care on their 16 <sup>th</sup> birthday and after are eligible for Chafee Grant funding. Chafee Grant provides up to \$5000 in free money (no pay back required) while youth attends college. Amount awarded, depends on the cost of the college. Youth must receive Chafee funds prior to 21 <sup>st</sup> birthday; eligibility continues to 23 <sup>rd</sup> birthday.
<b>18. ELIGIBILITY FOR TRANSITIONAL HOUSING PLACEMENT PROGRAM (THPP)</b>	N/A—Youth must be foster youth age 16 and over to be eligible. <sup>66</sup>	N/A—Youth must be foster youth age 16 and over to be eligible. <sup>67</sup>	N/A—Youth must be foster youth age 16 and over to be eligible. <sup>68</sup>	THPP prepares foster youth age 16 and over for independent living. Program consists of offsite supervised living situation in 2-3 bedroom shared housing units. It is a small program, currently with 22 beds. Foster youth must apply, interview, be active in school, and have letters of reference. <sup>69</sup>

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<b>19. ELIGIBILITY FOR ILSP HOUSING ASSISTANCE PROGRAMS</b>	N/A –Youth must be foster youth age 16 and over to be eligible. <sup>70</sup>	Youth in Legal Guardianship after their 16 <sup>th</sup> birthday are eligible for ILSP Housing and College Housing programs. <sup>71</sup> Slots are limited.	Youth in Legal Guardianship after their 16 <sup>th</sup> birthday are eligible for ILSP Housing and College Housing programs. <sup>72</sup> Slots are limited.	Youth who were in foster care at any time from their 16 <sup>th</sup> to their 19 <sup>th</sup> birthday are eligible for all ILSP housing programs, including college dorm housing assistance. Slots are limited. <sup>73</sup>
<b>20. ELIGIBILITY FOR FINANCIAL ASSISTANCE FOR HIGHER EDUCATION</b>	Effective July 2009, youth adopted on or after their 13 <sup>th</sup> birthday are eligible to access college financial aid as an “independent student” and their adoptive parent’s income will not have to be included in determining need for financial aid. <sup>74</sup> Children adopted prior to age 13 may be eligible for other federal & state financial aid. Eligibility is based on the youth & family’s income. Youth should consult with financial aid office.	Effective July 2009, youth in guardianship on or after their 13 <sup>th</sup> birthday are eligible to access college financial aid as an “independent student”. <sup>74</sup> Youth in Legal Guardian prior to age 13 may be eligible for federal and state aid. Eligibility is based on the youth’s income, and, if the biological parents have claimed the youth as a dependent on past two years’ income tax reports, their income is also considered. <sup>75</sup> Youth should consult with school’s financial aid office. need for financial aid.	Effective July 2009, youth in guardianship on or after their 13 <sup>th</sup> birthday are eligible to access college financial aid as an “independent student”. <sup>74</sup> Youth in Legal Guardianship prior to age 13 may be eligible for federal and state financial aid. The Legal Guardian’s income is <u>not</u> considered. Eligibility is based on the youth’s income, and, if the biological parents’ have claimed the youth as a dependent on past two years’ income tax reports, their income is also considered. <sup>75</sup> Youth should consult with school’s financial aid office.	Youth who were in foster care at any time from their 13 <sup>th</sup> to their 19 <sup>th</sup> birthday are eligible for federal and state financial aid. <sup>74</sup> Only the youth’s income is considered. These youth may also be eligible for other funding designated specifically for foster youth. Youth should consult with school’s financial aid office.

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<b>21. TAX CREDIT</b>	\$10,960.00 tax credit allowed year of adoption. If credit is more than tax liability limit, unused credit can be carried forward to next 5 tax years. <sup>76</sup>	N/A	N/A	N/A
<b>22. DUAL AGENCY CHILDREN</b>	Effective 7/1/07, children who are dual clients of the Regional Center and are court dependents are eligible for a rate of \$2006.00 monthly and may be assessed to be eligible for up to \$1000 additionally. Children 0-3 in the Early Start Program are eligible for a rate of \$898.00 per month. <sup>77</sup>	N/A	Effective 7/1/07, children who are dual clients of the Regional Center and are court dependents are eligible for a rate of \$2006.00 monthly and may be assessed to be eligible for up to \$1000 additionally. Children 0-3 in the Early Start Program are eligible for a rate of \$898.00 per month. <sup>77</sup>	Effective 7/1/07, children who are dual clients of the Regional Center and are court dependents are eligible for a rate of \$2006.00 monthly and may be assessed to be eligible for up to \$1000 additionally. Children 0-3 in the Early Start Program are eligible for a rate of \$898.00 per month. <sup>77</sup>

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