



# Bulletin

**NUMBER**

#15-68-15

**DATE**

August 26, 2015

**OF INTEREST TO**

County Directors

Social Services Supervisors  
and Staff

Tribal Directors

Tribal Social Services  
Supervisors and Staff

County Attorneys

Tribal Attorneys

**ACTION/DUE DATE**

Read information for  
implementation

**EXPIRATION DATE**

August 26, 2017

## **Title IV-E Northstar Kinship Assistance Program Requirements**

**TOPIC**

Defines and clarifies Northstar Kinship Assistance eligibility, and requirements for federal Title IV-E kinship guardianship assistance.

**PURPOSE**

To clarify and provide requirements of federal Title IV-E of the Social Security Act for implementation of a Guardianship Assistance Program for Northstar Kinship Assistance under Minnesota Statutes, Chapter 256N.

**CONTACT**

Child Safety and Permanency Division staff will respond to questions by email at [northstar.care@state.mn.us](mailto:northstar.care@state.mn.us), or 651-431-4485.

**SIGNED**

James G. Koppel  
Assistant Commissioner

**TERMINOLOGY NOTICE**

The terminology used to describe people we serve has changed over time. The Minnesota Department of Human Services (DHS) supports the use of "People First" language.

## **I. Background**

The federal Fostering Connections to Success and Increasing Adoptions Act of 2008 [P.L. 110-351] was implemented to increase and promote permanency for children in foster care through relative guardianship and adoption. The law provides subsidized guardianship payments for relatives who have a strong commitment to providing permanency for children in foster care.

In Minnesota, Northstar Kinship Assistance, under Minnesota Statutes, Chapter 256N, especially section 256N.22, was enacted in 2013 to implement Title IV-E provisions of the federal subsidized guardianship payments to relative custodians on behalf of children in foster care.

## **II. Introduction**

This bulletin will further define and clarify eligibility requirements and provisions for Northstar Kinship Assistance [Minnesota Statutes, Chapter 256N, especially sections 256N.02, subdivision 11, and 256N.22]. In Minnesota, as of January 1, 2015, children who are in foster care and who have been removed from their home through a voluntary placement agreement, [Minnesota Statutes, section 260C. 227] or as a result of a judicial determination to the effect that continuing or residing in the home would be contrary to the welfare of a child [Minnesota Statutes, section 260C.178 (f)] are eligible for Northstar Kinship Assistance payments to the extent that other federal and state eligibility requirements are met.

## **III. Reasonable Efforts to Place Siblings Together**

As with foster care and adoption, agencies must make reasonable efforts for siblings involved in a transfer of permanent legal and physical custody to be in the same home. [Minnesota Statutes, sections 260.012 and 260C.212, subdivision 2(d)]

Siblings removed from their home are to be placed in the same foster care, kinship, or adoptive placement, unless the county or tribal agency documents that such a joint placement would be contrary to the safety or well-being of any of the siblings, or unless placing siblings together is not possible after reasonable efforts by the county or tribal agency.

When siblings are removed from their home and are not jointly placed, the county and tribal agency will ensure that frequent visitation or other ongoing interaction between the siblings, unless the county or tribal agency documents that frequent visitation or other ongoing interaction would be contrary to the safety or well-being of any of the siblings.

#### **IV. Eligibility [Minnesota Statutes, section 256N.22, subdivision 1]**

A child as defined in Minnesota Statutes, section 260C.007, subdivision 4, is under 18 age and includes individuals under age 21 who are in extended foster care pursuant to section 260C.451. This definition also applies to children in voluntary foster care for treatment under Minnesota Statutes, Chapter 260D. A child must be a citizen of the United States or otherwise eligible for federal public benefits according to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended, to be eligible for Northstar Kinship Assistance. [Minnesota Statutes, section 256N.22, subdivision 3] A child is eligible to receive Northstar Kinship Assistance if an agency determines that all of the following are met:

##### **Removal [Minnesota Statutes, section 260C.001, subdivisions 2(b) (4) and (5)]**

In Minnesota, a child in foster care who has been removed from their home through a voluntary placement agreement, [Minnesota Statutes, section 260C. 227] or as a result of a judicial determination to the effect that continuing or residing in the home would be contrary to the welfare of a child.

##### **Placement [Minnesota Statutes, section 256N.22 subdivision 1(a) (2) (i)]**

A child has been placed with a prospective relative custodian [Minnesota Statutes, section 256N.02, subdivision 19] and is eligible to receive foster care maintenance payments under Minnesota Statutes, sections 256N.02, subdivision 015; 256N.21, subdivision 1(a); 256N.26; 256.82; and under U.S. Code 42, section 472, of the Social Security Act, and has been residing with the relative [Minnesota Statutes, section 260C.007, subdivision 27] for at least six consecutive months immediately preceding establishment of transfer of permanent legal and physical custody to a relative. The prospective relative custodian [Minnesota Statutes, section 260C.515, subdivision 4] has been licensed to provide foster care [Minnesota Statutes, section 245A.03, subdivision 2a] during these six consecutive months the child was residing with the relative. [Minnesota Statutes, section 256N.22, subdivision 1 (2) (i)] A background study in accordance with Minnesota Statutes, section 245C.33, has been completed on each prospective relative custodian, and any other adult residing in the home of the prospective relative custodian.

## **Permanency Determination [Minnesota Statutes, section 256N.22, subdivision 2]**

The legally responsible agency has made a determination that:

- Reunification and adoption are not appropriate permanency options for a child.
- A child demonstrates a strong attachment to the prospective relative custodian.
- The prospective relative custodian has a strong commitment to caring permanently for a child.

## **Consultation of a Child age 14 and Older [Minnesota Statutes, section 256N.22, subdivision 1(a) (5)]**

A child age 14 and older, or who will be age 14 prior to transfer of permanent legal and physical custody, has been consulted regarding the prospective relative custodian(s) and the kinship arrangement.

## **Siblings of Child [Minnesota Statutes, section 256N.22, subdivision 1 (a) (6) (c)]**

Any siblings of a child who meet the criteria of the Social Security Act, section 473 (d) and Northstar Kinship Assistance eligibility [Minnesota Statutes, section 256N.22] are also eligible for Title IV-E Northstar Kinship Assistance, if a child and sibling(s) are placed with the same prospective relative custodian(s), and the legally responsible agency, relatives, and commissioner agree on the appropriateness of the arrangement for the siblings. Northstar Kinship Assistance payments [Minnesota Statutes, section 256N.26] may be paid on behalf of each sibling.

## **Disability**

For the purposes of the Northstar Kinship Assistance program, and under [42 U.S. Code 673] Social Security Act, section 473 (d), a child who is:

- 1) Dependent on the relative custodian for care and financial support;
- 2) Possesses a physical or mental disability which impairs the capacity for independent living and warrants continuation of financial assistance, as determined by the commissioner.

A child meeting these two conditions is eligible for Northstar Kinship Assistance payments up to age 21 without the necessity of attaining age 16.

## V. Relative

A relative is defined in Minnesota Statutes, sections 256N.02, subdivision 18, and 260C.007, subdivision 12. Relatives are persons related to a child by blood, marriage or adoption, and an individual who is an important friend with whom a child has resided or had significant contact. Relatives include maternal and paternal adult relatives of a child, all grandparents, and all legal parents, guardians or custodians of a child's siblings. For American Indian children, relatives include members of the extended family as defined by law or custom of the tribe, or in the absence of law or custom, nieces, nephews or first and second cousins, as provided in the American Indian Child Welfare Act of 1978, 25 U.S. Code, Chapter 21, section 1903.

A relative custodian means a person to whom permanent legal and physical custody of a child has been transferred to under Minnesota Statutes, section 260C.515, subdivision 4, or for a child under jurisdiction of a tribal court. This can include a judicial determination under a similar provision in tribal code which means that a relative assumes the duty and authority to provide care, control, and protection of a child who had been residing in foster care. This means making decisions regarding a child's education, health care and general welfare until adulthood. [Minnesota Statutes, section 256N.02, subdivision 19]

The responsible social services agency must exercise due diligence to identify and notify adult relatives within 30 days after the removal of a child from the custody of the in parents. The county or tribal agency's due diligence to identify and provide notice to relatives includes all adult grandparents and other adult relatives of a child (including any other adult relatives suggested by the parents), subject to exceptions due to family or domestic violence. The notice must:

- Specify that a child has been or is being removed from the custody of their parents.
- Explain the options relatives have under federal, state, and local law to participate in the care and placement of a child, including any options that may be lost by failing to respond to the notice.
- Describe the requirements under paragraph (10) of this subsection to become a foster family home and the additional services and supports available for children placed in such a home.
- Describe how a relative custodian of a child may enter into a Northstar Kinship Assistance Benefit Agreement under section 473(d) to receive monthly payments on behalf of an eligible child.

[Minnesota Statutes, section 260C.221]

## **VI. Safety and Background Studies**

For the purpose of transferring permanent legal and physical custody to a relative under Minnesota Statutes, sections 260C.503 to 260C.515, cross-references to section 256N.22, subdivision 4, which requires a background study under Minnesota Statutes, sections 245C.33, subdivision 1(b), and 245C.05, subdivision 5 (c). The background study must be finger-print-based, include a review of the child abuse and neglect registries for the states that the foster parent or prospective relative custodian has resided in the past five years, and information from national crime information databases. [Minnesota Statutes, sections 245C.05, subdivision 5(c); 245C.33, subdivision 1 (b); and 245C.08, subdivision 1 (a) (6)] Criminal background checks on any relative guardians and any other adult living in the home of a relative guardian, must be completed before they may receive Northstar Kinship Assistance payments on behalf of a child under Title IV-E of the Social Security Act, Foster Care and Adoption Assistance State Plan.

## **VII. Northstar Kinship Assistance Benefit Agreement [Minnesota Statutes, section 256N.25]**

For a prospective relative custodian to receive benefits on behalf of an eligible child, a written, binding Northstar Kinship Benefit Agreement is negotiated in consultation with a relative custodian. The Northstar Kinship Benefit Agreement must be established and signed by all parties prior to finalization of transfer of permanent legal and physical custody.

### **Legal Agreement Among Three or Four Parties**

The Northstar Kinship Benefit Agreement is among three parties: The relative custodian(s), financially responsible agency, and the commissioner of the Minnesota Department of Human Services. In the unusual event that there is no financially responsible agency, the commissioner will designate an agency to play that role for purposes of signing the Benefit Agreement, but the department will pay the local share. Under some circumstances, the legally responsible agency, which is different from the financially responsible agency, must also sign as a fourth party.

The benefit agreement must specify which agency is financially responsible, and if different, which agency is legally responsible. The roles of legally and financially responsible are described in Attachment A on page 22 of DHS bulletin #14-32-18 (Dec. 18, 2014). [Minnesota Statutes, section 256.01, subdivision 14b, Chapter 256G, section 260.771, subdivision 4]

## **Benefit Agreement Minimum Provisions**

The Benefit Agreement must specify the initial amount of the monthly payment, as well as all benefits, services, and assistance available to a child and relative custodian to be provided under the agreement.

The benefit agreement must specify the:

- Amount of, each Northstar Kinship Assistance payment provided under the agreement, and the manner in which the payment may be adjusted periodically, in consultation with a relative guardian, based on the circumstances of a relative guardian and the needs of a child; and additional services and assistance that a child and relative custodian will be eligible for under the agreement.
- Procedure by which the relative custodian may apply for additional services, as needed.
- Total cost of nonrecurring expenses associated with obtaining legal guardianship of a child will be reimbursed through the department, to the extent the total cost does not exceed \$2,000.
- Agreement shall remain in effect without regard to the state or tribal service area residency of a relative custodian.

## **Services**

The Northstar Kinship Assistance Benefit Agreement lists services the relative custodian may access how to request a reassessment. It includes information about the following services:

- Reassessment and renegotiation of the benefit agreement
- Extensions of the benefit agreement
- Appeals
- Naming or modifying a successor relative custodian
- Information about payments or other aspects of this agreement through the Department's authorized benefit information portal website, or by contacting the Minnesota Department of Human Services.

If circumstances suggest that additional services may be needed, the relative custodian may apply at their county or tribal agency. The agency will assist in determining appropriate services, and eligibility for those services, for a child, the relative custodian(s), or both. Services may include independent living and transition services, child protection, disability, mental health, chemical dependency, home and community-based services, vulnerable

adult services, Medical Assistance, and other services offered by the county or tribal agency that a child or family are eligible to receive to maintain permanency.

## **Successor Custodian**

The Northstar Kinship Assistance Benefit Agreement includes the option for a relative custodian to name a successor in the event of the relative custodian's death or incapacity. Title IV-E eligibility is not affected by replacement of the relative custodian with a successor named in the benefit agreement. Northstar Kinship Assistance will be paid to the named successor who is not the child's legal parent, biological parent, or step-parent.

The successor custodian and any other adults living in the home must meet the fingerprint-based criminal record check of the National Crime Information Database (NCID) and Child Abuse and Neglect Registry (CANR) check completed before the relative guardian may receive Northstar Kinship Assistance payments on behalf of a child under Title IV-E of the Social Security Act, Foster Care and Adoption Assistance State Plan.

To continue to receive payments, and maintain Title IV-E eligibility, if applicable, the successor must:

- Meet background study requirements for all adults in the household, established in Minnesota Statutes, section 256N.22, subdivision 4.
- Renegotiate the agreement, including cooperating with an assessment under Minnesota Statutes, section 256N.24.
- Be ordered by the court to be the child's legal relative custodian in modification proceedings under Minnesota Statutes, section 260C.521, subdivision 2.

## **When no Successor is Named**

Northstar Kinship Assistance may be continued even when no successor has been named as part of the benefit agreement. However, if a successor has not been named in the agreement prior to a guardian's death or incapacitation, a child may no longer receive Title IV-E benefits, even if they had previously received these benefits.

## **Nonrecurring Expenses [Minnesota Statutes, section 256N.25, subdivision 1(b) (5)]**

Once a benefit agreement is effective, the department will pay the total cost of nonrecurring expenses associated with obtaining transfer of legal and physical custody of a child, to the extent that costs do not exceed \$2000. Reimbursement must be claimed within the first 21 months after the court order transferring custody.

### **Negotiation of the Northstar Kinship Assistance Benefit Agreement [Minnesota Statutes, section 256N.25, subdivision 2]**

An agreement must be negotiated with the relative custodian(s). When the relative custodian and agency concur or agree to the terms of an agreement, they sign the agreement. After eligibility determination has been approved, the county or tribal agency must submit the agreement to the commissioner for final review, approval and signature.

### **Renegotiation of the Northstar Kinship Assistance Benefit Agreement [Minnesota Statutes, section 256N. 25, subdivision 3]**

A relative custodian with a Northstar Kinship Assistance Benefit Agreement may request renegotiation of the agreement when there is a change in the needs of a child or a family's circumstances. When a relative custodian requests renegotiation of their agreement, a MAPCY (Minnesota Assessment of Parenting for Children and Youth) reassessment of the child must be completed, consistent with Minnesota Statutes, section 256N.24, subdivisions 10 and 11. Consistent with Minnesota Statutes, section 256N. 24, subdivision 13, financially responsible agencies must send caregivers the required written notice within 15 days of a completed assessment or reassessment. [Minnesota Statutes, section 256N.26, subdivision 15]

If the MAPCY reassessment indicates that a child's level has changed, the department and caregiver must renegotiate the agreement to include a payment with the level determined through the reassessment process. The agreement must not be renegotiated unless the commissioner and caregiver mutually agree to the changes. The effective date of any renegotiated amendment to the benefit agreement must be determined by the commissioner.

### **Northstar Kinship Assistance Benefit Agreement and Residency**

The Northstar Kinship Benefit Agreement shall remain in effect without regard to the state or tribal service area of residency of a relative custodian, and without regard to whether the state of residence is exercising its option to provide extended assistance provided in section 475(8)(B) of the Act.

### **Northstar Kinship Assistance Benefit Agreement Must be Signed Prior to Final Court Action [Minnesota Statutes, section 256N. 25, subdivision 1(c) and (d)]**

The Northstar Kinship Assistance Benefit Agreement must be signed by all parties, including the relative custodian, responsible agency and the commissioner, prior to a court order transferring permanent legal and physical custody to the relative under Minnesota Statutes, section 260C.515, subdivision 4.

## **Effective Date of Benefit Agreement**

The effective date shall not be prior to all parties signing the benefit agreement. After being signed by all parties, the effective date of the agreement is the date of the court order transferring permanent legal and physical custody to a relative under Minnesota Statutes, section 260C.515, subdivision 4.

However, notwithstanding the requirements of the previous paragraph, in the case of an appeal and fair hearing, the effective date is the date ordered by the appeals judge, and in the case of commissioner transitions, the effective date is the transition date ordered by the commissioner.

On the effective date of the benefit agreement, monthly payments shall commence and Medicaid coverage shall begin, retroactive to the effective date, as needed. As of the effective date, nonrecurring expenses may be reimbursed, including expenses incurred prior to the effective date.

## **Copy of Benefit Agreement to Relative Custodian**

After the Benefit Agreement is signed by all parties and all verifications completed, including the court order transferring custody, the department will send a copy of the signed and verified Northstar Kinship Assistance Benefit Agreement to the relative custodian(s).

## **Termination of the Northstar Kinship Assistance Benefit Agreement [Minnesota Statutes, section 256N.22, subdivision 8]**

A Northstar Kinship Assistance Benefit Agreement must be terminated:

- When a child turns age 18, except the agreement may remain in effect up to age 21 when a child meets a condition for extension under section 256N.22, subdivision 11.
- Before a child reaches age 18, when the commissioner has determined that the relative custodian is no longer legally responsible for support of a child.
- If the relative custodian is no longer providing financial support to a child up to age 21.
- When a child dies.
- If the relative custodian requests, in writing, termination of the Northstar Kinship Assistance Benefit Agreement.

## **Extension of the Northstar Kinship Assistance Benefit Agreement [Minnesota Statutes, section 256N.22, subdivision 11]**

Prior to a child turning 18, and termination of the agreement, the commissioner will provide written notice to the relative custodian with instructions about how to apply for an extension of the agreement. The commissioner may approve an extension of the agreement after determining that the extension conditions are met. There are two separate categories when considering extensions for children who attained permanency:

- Prior to age 16
- At age 16 or older.

### **Extensions for Children Who Attained Permanency Prior to Age 16**

If a child attained permanency and the Northstar Kinship Assistance Benefit Agreement became effective prior to age 16, a child meeting both of the following conditions may be eligible for an extension of an agreement if a child:

1. Is dependent on the relative custodian for care and financial support.
2. Has a physical or mental disability which impacts the capacity for independent living, and warrants continuation of financial assistance as determined by the commissioner.

The Northstar Kinship Benefit Agreement refers to children with conditions such as incapable of self-sustaining employment because of a physical or mental disability. In Minnesota, these phrases are considered to be equivalent, and to have the same meaning. [Minnesota Statute, section 256N.22, subdivision 11 (f)]

### **Extensions for Children Who Attained Permanency at Age 16 or Older**

If a child attained permanency and the Northstar Kinship Assistance Benefit Agreement became effective at age 16 or older, then a child meeting any one or more of the following conditions may be eligible for an extension of the agreement:

- Enrolled in high school or an equivalent secondary education program.
- Enrolled in an institution that provides a post-secondary education or vocational school.
- Employed at least 80 hours a month.
- Participating in a program or activity designed to remove employment barriers.

- Incapable of doing any of the previously described educational or employment activities due to a medical condition.
- Meeting the conditions for a child who attained permanency prior to age 16.

The agreement will not be extended beyond the date of a child turning 21. [Minnesota Statutes, section 256N.22, subdivision 11 (f)]

## VIII. Northstar Kinship Assistance Benefits and Payments

A child eligible for Northstar Care for Children is entitled to benefits specified in Minnesota Statutes, section 256N.26.

### Monthly Payment

Monthly payments are based primarily on a child's age (basic payment) and the MAPCY assessment under Minnesota Statutes, section 256N.24 (supplemental payment), and if appropriate, negotiations and agreements under section 256N.25. Although paid to the caregiver (which includes relative custodians), these benefits must be considered benefits to a child rather than a caregiver. [Minnesota Statutes, section 256N.20, subdivision 4]

For children eligible for Northstar Kinship Assistance, the department pays grandparents and other relatives who are named relative custodians of a child for whom they have cared for as foster parents, and for whom they have committed to care for on a permanent basis, as provided in Social Security Act, section 473 (d). Payments to relative custodians under Northstar Care for Children must be made monthly, beginning with the effective date of the benefit agreement. The amount of the initial payment shall be listed on the Northstar Kinship Assistance Benefit Agreement. This amount is automatically adjusted to keep it in line with foster care payments, such as adjustments for age, child care costs, child income offsets, and for cost of living.

The monthly payment under Northstar Kinship Assistance may be negotiated, but the amount **may not exceed the foster care maintenance payment**, which would have been paid on behalf of a child if they had remained in a foster family home. When an eligibility determination is submitted prior to final court action ordering transfer of legal and physical custody if a child is age:

- Six or older, they will receive the full amount that they would have received in foster care (school age rate), or less, if negotiated.
- Five or younger, they will receive half the amount that they would have received in foster care (pre-school age rate), or less, if negotiated.

## **Medicaid and Social Services [Minnesota Statutes, section 256B.055, subdivision 2]**

For the purposes of Titles XIX and XX institutions, any child eligible for whom there is a Northstar Kinship Assistance payment being made [kinship guardianship assistance under 42 U.S. Code 673] Social Security Act, section 473 (d) is deemed to be a dependent child as defined in section 403 of the Act, and is deemed to be a recipient of Aid to Families with Dependent Children under part A of Title IV of the Act (as in effect July 16, 1996) in the state in which such child resides is eligible for Medicaid.

Such a child is automatically eligible for Medical Assistance (Minnesota's Medicaid program), or the Medicaid program in any other state or tribal service area in which a child resides.

## **IX. Appeals**

A caregiver has the right to appeal to the commissioner under Minnesota Statutes, section 256.045, when eligibility for Northstar Care for Children is denied, and when payments or the agreement for an eligible child is modified or terminated. [Minnesota Statutes, section 256N.28, subdivision 6]

## **X. Case Plan Requirements and Documentation**

When an out-of-home placement plan under Minnesota Statutes, section 260C.212, subdivision 1, is required for a child, and the permanency plan is transfer of permanent legal and physical custody to a relative, and receipt of Northstar Kinship Assistance payments, the out-of-home placement plan shall include a description and documentation of:

- Steps an agency has taken to determine that it is not appropriate for a child to be returned home or adopted.
- Reasons for separation of siblings during placement.
- Reasons why a permanent placement with a fit and willing relative through a Kinship Assistance arrangement is in a child's best interests.
- The ways in which a child meets eligibility requirements for a Northstar Kinship Assistance payment.
- Efforts made by an agency to discuss adoption by a child's relative foster parent as a more permanent alternative to transfer of permanent legal and physical custody; and, in the case of a relative foster parent who has chosen not to pursue adoption, documentation of the reasons.

- Efforts made by an agency to discuss with a child's parents the Northstar Kinship Assistance arrangement, or the reasons why efforts were not made.

## **XI. Commissioner Transitions**

Based on priorities and requirements in statute, the commissioner may accomplish a transition of a child from Relative Custody Assistance or the Title IV-E Waiver Minnesota Permanency Demonstration to Northstar Kinship Assistance by declaration and appropriate notice to the caregiver, provided that the monthly payment for a child is not reduced. Relative custodians must sign the required benefit agreement and meet other requirements specified in the transition notice.

In most cases, the resulting Northstar Kinship Assistance benefit will not be Title IV-E.

However, commissioner transitions from the Title IV-E Waiver Minnesota Permanency Demonstration may meet Title IV-E. The Minnesota Permanency Demonstration tested many of the ideas used in Northstar Kinship Assistance under a federal waiver. Title IV-E Northstar Kinship Assistance was created under the auspices of the federal "Fostering Connections to Success and Increasing Adoptions Act of 2008" [Public Law 110-351], which was signed into law October 7, 2008. This signature date established a dividing line for children who entered the Minnesota Permanency Demonstration on or before September 30, 2008, as follows:

- Will be Title IV-E eligible.
- Will be Title IV-E eligible if all the requirements of Northstar Kinship Assistance were met at the time that the transfer of permanent legal and physical custody was finalized.

[Minnesota Statutes, sections 256N.20, subdivision 7; 256N.21, subdivision 6; 256N.22, subdivision 13; 256N.24, subdivision 14; 256.24, subdivisions 1, 7-8 and 12-14; and 256N.28, subdivisions 2 and 7]

## **Americans with Disabilities Act (ADA) Advisory**

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